



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

MODERNIZING FEDERAL PROCUREMENT FOR SMALL AND MEDIUM ENTERPRISES, WOMEN-OWNED AND INDIGENOUS BUSINESSES

**Report of the Standing Committee on Government
Operations and Estimates**

Tom Lukiwski, Chair

**JUNE 2018
42nd PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committee presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

To assist the reader:

A list of acronyms used in this report is available on page xi

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THE STANDING COMMITTEE ON GOVERNMENT OPERATIONS AND ESTIMATES

has the honour to present its

FIFTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the Procurement Strategy for Aboriginal Business and small and medium enterprises (SME) in federal procurement and has agreed to report the following:

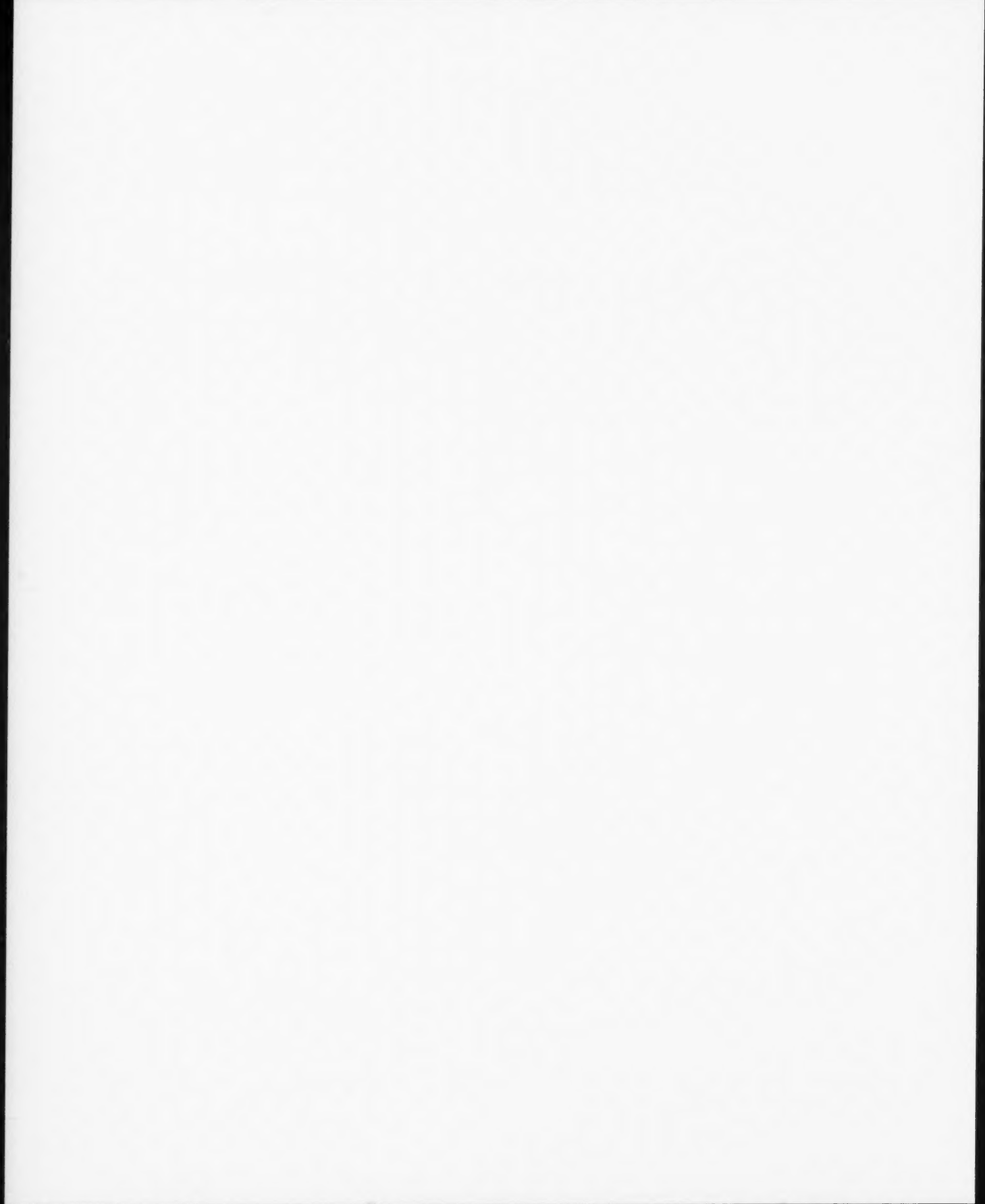


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LIST OF ACRONYMS

ACEC	Association of Consulting Engineering Companies
BCIP	Build in Canada Innovation Program
CCAB	Canadian Council for Aboriginal Business
CCS	Crown Commercial Service (of the United Kingdom)
CETA	Canada–European Union Comprehensive Economic and Trade Agreement
CFIB	Canadian Federation of Independent Business
CFTA	Canadian Free Trade Agreement
CICP	Canadian Innovation Commercialization Program
CITT	Canadian International Trade Tribunal
ESDC	Employment and Social Development Canada
GBA+	Gender-Based Analysis Plus
GDP	Gross Domestic Product
INAC	Indigenous and Northern Affairs Canada
ICT	Information and Communications Technology
IRAP	Industrial Research Assistance Program
IT	Information Technology
ITAC	Information Technology Association of Canada
ITB	Industrial and Technological Benefits
NAFTA	North American Free Trade Agreement
NLOWE	Newfoundland and Labrador Organization of Women Entrepreneurs
NSE	National Security Exception
NSS	National Shipbuilding Strategy
OECD	Organisation for Economic Co-operation and Development
OGGO	House of Commons Standing Committee on Government Operations and Estimates
OJEU	Official Journal of the European Union
OPO	Office of the Procurement Ombudsman

OSME	Office of Small and Medium Enterprises
PAR	<i>Progressive Aboriginal Relations</i>
PSAB	Procurement Strategy for Aboriginal Business
PSPC	Public Services and Procurement Canada
RFP	Request for Proposals
SBIR	Small Business Innovation Research Program
SLSA	<i>Software Licensing Supply Arrangement</i>
SMEs	Small and Medium Enterprises
SR&ED	Scientific Research and Experimental Development Tax Incentive Program
SSC	Shared Services Canada
TBS	Treasury Board Secretariat
TWCC	Tribal Wi-Chi-Way-Win Capital Corporation
WBE Canada	Women Business Enterprises Canada Council
WOSB	Women-Owned Small Business
WTO	World Trade Organization
WTO-GPA	World Trade Organization Agreement on Government Procurement

SUMMARY

On 31 October 2017, the House of Commons Standing Committee on Government Operations and Estimates (the Committee) undertook a study of federal procurement on how to improve access to small and medium enterprises (SMEs) and Indigenous businesses. In the course of its study, the Committee held 16 meetings, heard from 70 witnesses and received 13 briefs.

The Committee's study reviews the federal government procurement process and outlines the main challenges of the current procurement process along with the principal barriers preventing SMEs, women-owned and Indigenous businesses from accessing federal contracts.

In this report, the Committee makes 40 recommendations to improve the federal government procurement process. The Committee points to five main challenges with the current system:

- the complexity of the federal procurement process;
- the use of misaligned procurement approaches;
- the focus on price, to the detriment of qualifications and quality when selecting contractors and suppliers;
- the need to make federal procurement more inclusive for SMEs, women-owned businesses and other socially disadvantaged groups; and,
- the failure of the Procurement Strategy for Aboriginal Business to live up to its potential and its need for improvement.

The Committee's recommendations address these challenges by proposing the following:

- simplifying the current procurement process;
- modernizing the Government of Canada's policies and procedures for contracting, including streamlining requirements and updating terms and conditions, taking into account the findings of the Office of the Procurement Ombudsman;

- ensuring that the right procurement approach is used for each procurement;
- implementing strategies to encourage and promote procurement officials and suppliers to place greater emphasis on best value for Canadians, by including value-propositions that give greater weight to qualifications and quality rather than primarily focusing on price;
- establishing targets for the dollar amounts and the number of federal procurement contracts that the federal government awards to SMEs; and,
- improving data collection to track and evaluate the impact of the Procurement Strategy for Aboriginal Business on Indigenous business activities in order to provide greater accountability.

Highlights for Small and Medium Enterprises

The Committee encourages business owners and, in particular SMEs, to take advantage of government procurement opportunities by:

- frequently consulting the federal government buyandsell.gc.ca website for tenders;
- using the resources of the Office of Small and Medium Enterprises to increase SME access to federal procurement contracts, reduce barriers, simplify the contracting process, and take advantage of opportunities available to increase their chances of doing business with the federal government; and,
- accessing procurement opportunities in other countries where Canada has signed international trade agreements, such as the *World Trade Organization Agreement on Government Procurement*, which offers Canadian suppliers preferential access to procurement activities worth several trillion dollars annually.

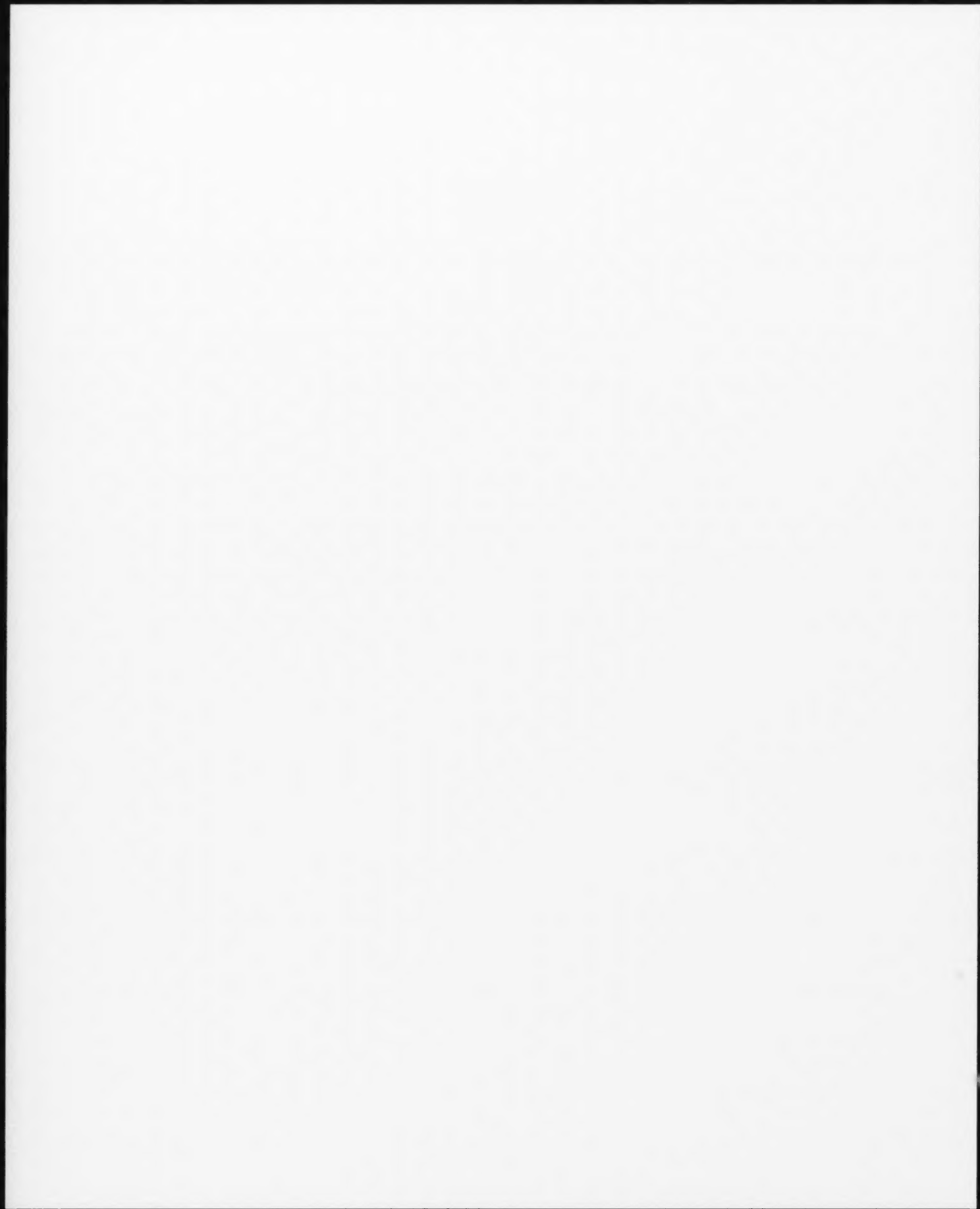
It is important for SMEs to note that the primary objective of international trade agreements is to provide Canadian businesses, including SMEs, with access to government procurement in foreign markets. Moreover, most trade agreements include transparency provisions with information on procurement opportunities and details about the award of a contract, such as evaluation criteria and rules on qualification of suppliers.

The Committee recognizes that the federal procurement process is very complex and can be difficult to navigate for most Canadian business owners, especially SMEs and Indigenous businesses. It is concerned that the majority of SMEs in Canada do not consider the federal government as a potential client, and those that do, are often discouraged with the process. As such, the process could be greatly improved for SMEs. The Committee acknowledges that the federal procurement process needs to be simplified for SMEs by reducing red tape, ensuring that requirements are tailored to the procurement opportunity, and shortening the length of the process.

In its study, the Committee observed that the federal procurement process is disjointed and would benefit from better coordination among federal departments and agencies. It also observed that the federal government's approach to procurement is inward looking with processes that are not geared toward suppliers and do not take into account the needs of SMEs. Federal procurement should be easy to navigate and supplier oriented. As well, procurement materials should be written in plain language and English and French versions should be consistent. The Committee encourages the Office of Small and Medium Enterprises, the Procurement Ombudsman and the Canadian International Trade Tribunal to continue outreach activities, and to work collaboratively to improve federal procurement.

The Committee acknowledges that data collection and analysis is an important step in evaluating federal procurement and identifying opportunities for improvement. This includes measuring the proportion of procurements that are awarded to different types of SMEs and gathering gender-based and industry-specific data. It is also important that all Canadians, including business owners and suppliers, have access to reliable federal procurement data in a timely fashion.

Finally, the Committee encourages the federal government to consider implementing a simplified procurement process specifically for SMEs or for contracts below a certain threshold. The Committee believes that a diversified supplier base populated by SMEs would encourage innovation and benefit the federal government in delivering value.



LIST OF RECOMMENDATIONS

As a result of their deliberations, committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

The Government of Canada establish a centre of expertise on agile and outcomes-based procurement, and incorporate agile principles, including multi-disciplinary procurement project teams and procurement bids with iterative feedback, in order to achieve desired outcomes, and that the centre be located within Public Services and Procurement Canada. 46

Recommendation 2

The Government of Canada increase the use of outcomes-based procurement approaches, where appropriate..... 46

Recommendation 3

The Government of Canada provide training to procurement staff to increase their capacity on federal procurement and to develop expertise with agile and outcomes-based procurement approaches. 46

Recommendation 4

The Government of Canada, in particular the Treasury Board Secretariat and Public Services and Procurement Canada, modernize its policies and procedures for contracting, including streamlining requirements and updating terms and conditions, taking into consideration the findings of the Office of the Procurement Ombudsman. 79

Recommendation 5

The Government of Canada, in particular the Treasury Board Secretariat, align procurement policies, processes, procedures, and practices to ensure ease and consistency of experiences for suppliers across all federal government departments and agencies..... 80

Recommendation 6

The Government of Canada, in particular the Treasury Board Secretariat, learn from and use the expertise of Public Services and Procurement Canada in the development of government-wide procurement policy. 80

Recommendation 7

The Minister of Public Services and Procurement and the President of the Treasury Board work closely with the Minister of Small Business and Tourism to reduce administrative burden on small and medium enterprises in the procurement process..... 80

Recommendation 8

The Government of Canada develop procurement strategies that will support small and medium enterprises and increase inclusivity, through consultation with small and medium enterprises and relevant experts. 80

Recommendation 9

The Government of Canada introduce a simplified and consistent process for procurements below the trade agreement thresholds across government, where applicable, and reduce the complexity of the process for small and medium enterprises, modeled after the simplified acquisition process best practices in the United States, such as the GSA Advantage Program..... 80

Recommendation 10

The Government of Canada request that all procuring departments and agencies, during the early development of procurements, examine how small and medium enterprises, Indigenous-owned business, and women-owned business, are considered as part of the process..... 80

Recommendation 11

The Government of Canada create a centralized repository of all standing offers issued by federal organizations to reduce duplication and to assess their effectiveness. 81

Recommendation 12

The Government of Canada simplify its invoicing process for small and medium enterprises and further accelerate its payments timelines, with a requirement to pay small and medium enterprises in less than 30 days. 81

Recommendation 13

The Government of Canada implement federal prompt payment legislation that includes timelines for payments to contractors and subcontractors, modeled after Ontario's prompt payment legislation, where applicable. 81

Recommendation 14

The Government of Canada implement measures to ensure that there is appropriate risk sharing in federal contracts and to determine which terms and conditions are appropriate relative to the size, nature and complexity of the procurement, so that they do not unfairly disadvantage small and medium enterprises, and that the Treasury Board its policy on decision making in limiting contractor liability and its policy on contracting are updated and clarified to implement such measures. 81

Recommendation 15

The Government of Canada implement strategies to encourage and promote procurement officials and suppliers to place greater emphasis on best value for Canadians, by including value propositions that give greater weight to qualifications and value rather than primarily focusing on price..... 81

Recommendation 16

The Government of Canada implement a supplier performance rating system to evaluate and track vendor performance, which includes a component that recognizes new suppliers. 81

Recommendation 17

The Government of Canada collect and measure contract data on the proportion of procurements that are currently awarded to different types of small and medium enterprises, including gender-based data and industry-specific data. 82

Recommendation 18

The Government of Canada collect and measure contract data for supply arrangements and standing offers to better understand how often businesses included on these contract vehicles are called on for work..... 82

Recommendation 19

The Government of Canada establish targets for the value and the number of federal procurement contracts that it awards to small and medium enterprises. 82

Recommendation 20

The Government of Canada examine the possibility of establishing procurement set-asides, in compliance with Canada's trade agreements, for small and medium enterprises, including set-asides for women-owned businesses..... 82

Recommendation 21

The Government of Canada increase its recruitment, training and development of procurement specialists across all federal organizations and build on successful training programs, such as the intern procurement officer development program..... 82

Recommendation 22

The Office of Small and Medium Enterprises increase its outreach and education activities to proactively engage with, evaluate the needs of, and provide training for small and medium enterprises to increase their ability to access procurement and to increase the number of successful bids and contract awards. 82

Recommendation 23

The Government of Canada increase the transparency of procurements by providing feedback to unsuccessful bidders and disclosing information on procurement outcomes. 82

Recommendation 24

The Government of Canada design procurement opportunities to facilitate the use of joint ventures and other partnerships between small and medium enterprises and with large businesses, and ensure that policies and practices are aligned to allow and encourage this approach. 83

Recommendation 25

The Government of Canada continue to run the Build in Canada Innovation Program as part of Innovative Solutions Canada, and that Innovation, Science and Economic Development Canada use and build on the expertise of Public Services and Procurement Canada in the continued implementation of the program. 91

Recommendation 26

The Government of Canada expand the Build in Canada Innovation Program to increase the number of participants, increase marketing of the program and establish metrics to measure outcomes related to innovation. 91

Recommendation 27

The Government of Canada develop opportunities for successful participants of the Build in Canada Innovation Program to encourage follow-on sales with the government for a defined period of time following the completion of the program. 91

Recommendation 28

The Government of Canada collect, evaluate and track gender-based data and diversity-based data for socially-disadvantaged groups for all federal procurement contracts. 104

Recommendation 29

The Government of Canada develop procurement strategies, including simplifying its process, that will benefit women entrepreneurs and women-owned businesses, through consultation with those groups. 104

Recommendation 30

The Government of Canada examine the possibility of using a weighting scheme to award points to small and medium enterprises and women-owned businesses when awarding federal contracts. 105

Recommendation 31

The Government of Canada examine and learn lessons from the experience of suppliers using the Procurement Strategy for Aboriginal Business, as well as the successful practices in the United States, and consult with women-owned businesses when determining how these businesses will be certified..... 105

Recommendation 32

The Government of Canada increase the participation of Indigenous businesses in federal procurement contracts by taking into account the culture of Indigenous communities and by developing strong relationships and partnerships through more in-person interactions. 135

Recommendation 33

The Government of Canada develop a multi-departmental approach for the administration of the Procurement Strategy for Aboriginal Business, including greater roles and responsibilities for Public Services and Procurement Canada in the policy development and implementation and for the Treasury Board Secretariat to monitor, report and enforce departmental use and adherence to the policy. 135

Recommendation 34

The Government of Canada ensure that all procuring departments and agencies have a common interpretation of the Procurement Strategy for Aboriginal Business and take advantage of the voluntary set-asides component for Indigenous businesses..... 135

Recommendation 35

The Government of Canada publish on an annual basis a centralized report on the number and value of contracts awarded under the Procurement Strategy for Aboriginal Business. 135

Recommendation 36

The Government of Canada conduct a gender-based analysis plus (GBA+) of the impact of the Procurement Strategy for Aboriginal Business to identify potential barriers to different groups of Indigenous business owners. 136

Recommendation 37

The Government of Canada improve the current set-asides for Indigenous businesses to increase their use and promote contract awards to Indigenous businesses in order to respect the requirements of the Procurement Strategy for Aboriginal Business and the set-asides. 136

Recommendation 38

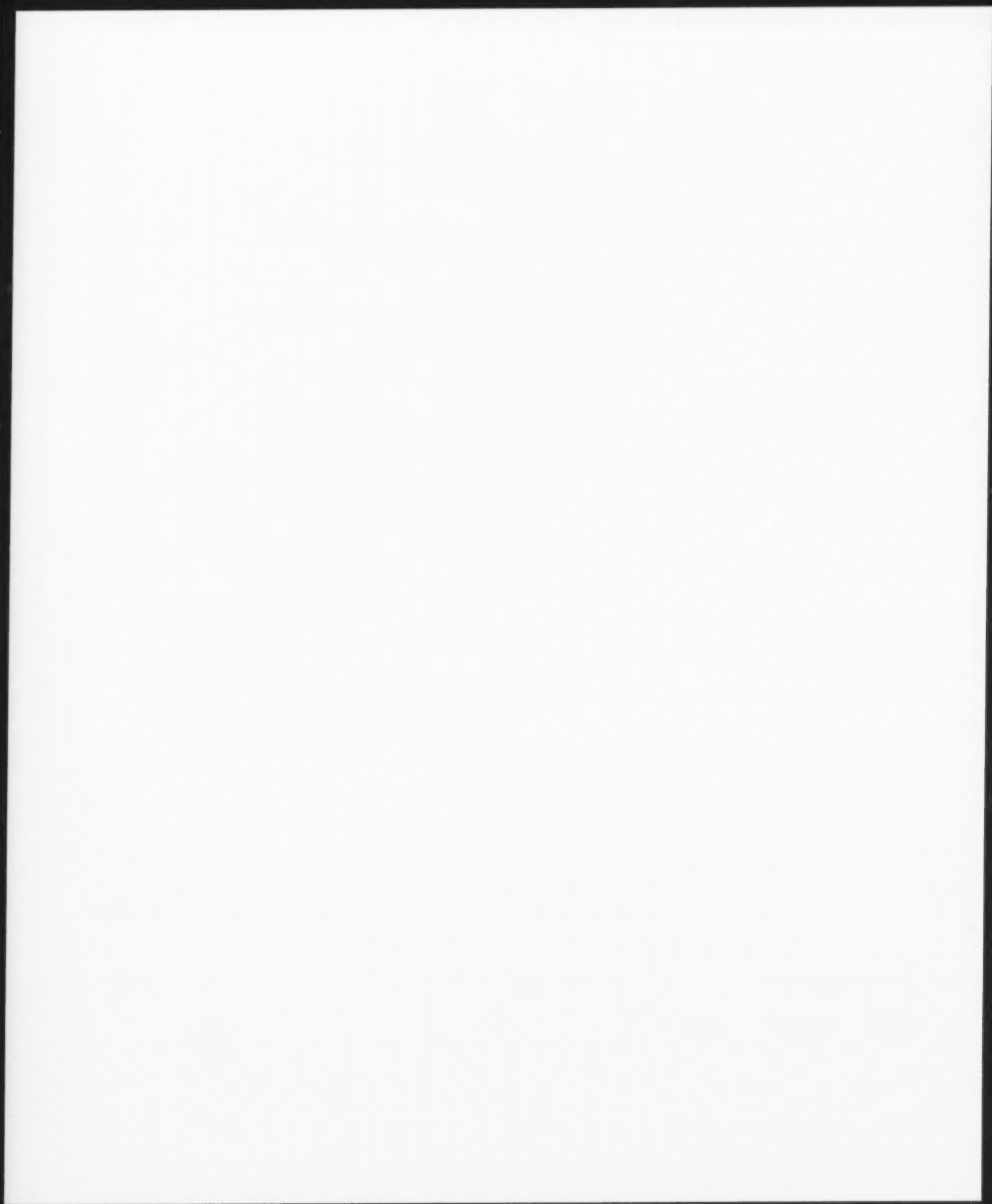
The Government of Canada improve its data collection of Indigenous business activities to properly measure and evaluate the impact of the Procurement Strategy for Aboriginal Business in order to identify challenges, provide greater accountability, and improve the Strategy as required. 136

Recommendation 39

The Government of Canada require large-scale contractors and suppliers to report on the use of diverse subcontractors, including Indigenous and women-owned businesses. 136

Recommendation 40

The Government of Canada phase in requirements that large-scale contractors advertise subcontracting opportunities for small and medium enterprises on the government's procurement website, buyandsell.gc.ca. 136





MODERNIZING FEDERAL PROCUREMENT FOR SMALL AND MEDIUM ENTERPRISES, WOMEN- OWNED AND INDIGENOUS BUSINESSES

INTRODUCTION

[The] Minister [of Public Services and Procurement]'s mandate [is] to increase the diversity of bidders—including women, indigenous peoples, persons with disabilities, and visible minorities—and to take measures to increase the accessibility of the procurement system to such groups while working to increase the capacity of these groups to participate in the system.

Arianne Reza,

Assistant Deputy Minister, Procurement,
Public Services and Procurement Canada

The federal government spends some \$23 billion on goods and services.¹ In the words of *Kathleen Owens*, Assistant Comptroller General, Acquired Services and Assets Sector at the Office of the Comptroller General, Treasury Board Secretariat, “[p]rocurement is a key mechanism federal organizations use to meet their business needs and deliver results to Canadians.”

On 24 October 2017, the House of Commons Standing Committee on Government Operations and Estimates (the Committee) adopted *two motions* related to procurement – to study the federal government’s procurement strategy in relation to Indigenous businesses, and to study small and medium enterprises (SMEs) in the context of federal procurement.

Between 31 October 2017 and 30 April 2018, the Committee held 16 meetings and heard from 70 witnesses, including federal officials from the Treasury Board Secretariat, Public Services and Procurement Canada, Global Affairs Canada, the Canadian International Trade Tribunal and Indigenous and Northern Affairs Canada; the interim Procurement Ombudsman; representatives from SMEs and business associations; Indigenous communities and organizations; Indigenous business owners; chambers of

1 Public Services and Procurement Canada (PSPC), *2018-19 Departmental Plan*, p. 10.



commerce; oil and gas companies; the City of Toronto; the United States (U.S.) and United Kingdom (U.K.) governments; academics; and consultants. The Committee also received 13 written briefs. The full list of witnesses is available in Appendices A and B, and the list of briefs submitted is found in Appendices C and D.

The report of the Committee's findings contains six chapters. Chapter 1 describes the binding rules of the federal government's procurement framework, including policies and directives, land claim agreements, international trade agreements and National Security Exceptions. This chapter also discusses the roles and responsibilities of various departments and organizations involved in federal procurement. Chapter 2 considers ways that the government could modernize federal procurement through agile and outcomes-based procurement approaches. Chapter 3 includes issues raised by SMEs and suggestions on how to improve SME access to federal contracts. Chapter 4 discusses innovation and the Build in Canada Innovation Program. Chapter 5 presents challenges faced by women-owned businesses and opportunities to increase their participation. Finally, Chapter 6 addresses Indigenous businesses; in particular, it examines the Procurement Strategy for Aboriginal Business, a federal initiative designed to help Indigenous businesses participate and benefit from federal procurement. This chapter also explores success stories from oil and gas companies doing business with Indigenous communities, and programs in place in other jurisdictions aimed at supporting Indigenous businesses.

CHAPTER 1: THE FEDERAL PROCUREMENT FRAMEWORK

[W]e recognize that the whole system is there for the Government of Canada to get the best value for its money for taxpayers, and that small and medium-sized enterprises play a very important role in maintaining the integrity of the competitive procurement system.

Eric Wildhaber,
Senior Counsel, Secretariat to the
Canadian International Trade Tribunal

Ms. Owens explained that departments and agencies “have to apply a relatively complex web of procurement rules” when they purchase goods and services. She added that federal procurement “is governed by a combination of legislative, regulatory, and policy requirements, including Canada’s commitments under modern treaties with Indigenous peoples and provincial and territorial governments, as well as 11 domestic and international trade agreements.”

The policy and legal framework relating to federal procurement also include a challenge process through the Office of the Procurement Ombudsman and the Canadian International Trade Tribunal (CITT). According to the federal government, these legal, regulatory and policy requirements ensure that contracting is conducted in an “open, fair and transparent way.”² The principles of open, fair and transparent procurement are supported by the government’s compliance with the *Financial Administration Act*, the *Government Contracts Regulations* and Canada’s international and national trade agreements. *Ms. Owens* indicated that openness is supported by the Government Contracts Regulations, which require that bids be solicited before entering into a contract. There are however four exceptions: when the value of a contract is lower than \$25,000, when the contract is for a pressing emergency, when soliciting bids is not in the public interest and when only one supplier can provide the good or service. She noted that the majority of federal government contracts are valued at less than \$25,000.

2 PSPC, “*Frequently asked questions*,” *Code of Conduct for Procurement*.



1.1 Policies and Directives

The federal government's policies and directives on procurement are extensive. The Public Services and Procurement Canada (PSPC) *Supply Manual* provides guidance in relation to the various requirements that apply to certain federal procurements, including the use of fairness monitors, the green procurement strategy, National Security Exceptions, contracting with former public servants, integrity provisions, employment equity, and regional benefits, among others.

The Treasury Board Contracting Policy, which applies to 98 federal organizations listed in schedules I, I.1 and II of the *Financial Administration Act*, defines the manner in which federal procurement should be conducted. Federal Crown corporations and the Canada Revenue Agency have their own internal procurement policies and procedures.

The Treasury Board Contracting Policy sets out "the policy objective for government contracting as being that to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to Canada and the Canadian people." Pursuant to the contracting policy, government contracting should

- Stand the test of public scrutiny in matters of prudence and honesty, facilitate access, encourage competition and reflect fairness in the spending of public funds.
- Ensure the pre-eminence of operational requirements.
- Support long-term industrial and regional development and other appropriate national objectives, including aboriginal economic development.
- Comply with the government's obligations under [the *North American Free Trade Agreement*], [the *World Trade Organization- Agreement on Government Procurement*], [the *Comprehensive Economic and Trade Agreement*], [the *Canadian Free Trade Agreement*] and [the *Agreement on Internal Trade*].

The Procurement Review Policy sets out requirements to enhance the use of procurement in support of industrial and regional development, in addition to other national objectives. Consistent with the contracting policy, the Procurement Review Policy sets out objectives for federal procurement, including the following:

- the pre-eminence of operational requirements, competition, fairness and accessibility as major policy cornerstones of the federal procurement process;
- long-term industrial and regional development; and

- other national objectives.

According to the policy requirements, “[a]ll government procurements exceeding \$2 [million] must be reviewed for potential opportunities to support industrial and regional development and other national objectives (e.g., the environment employment and equity programs).” Other Treasury Board policies affect federal procurement such as the policy on green procurement, which requires that environmental objectives be integrated into contracting decisions.

Matthew Sreter, Executive Director of Strategic Policy Development and Integration at PSPC, explained that some initiatives such as the Canadian Content Policy give preference to Canadian businesses, as they encourage industrial development by requiring domestic content in procurement not covered by trade agreements (i.e. defence-related procurement). Arianne Reza, Assistant Deputy Minister of Procurement at PSPC, indicated that there are two types of procurements – non-defence and defence procurements – and that while Treasury Board policies and guidelines apply to both, trade obligations restrict the federal government’s use of the Canadian Content Policy.

1.2 Trade Agreements

The primary objective of negotiating free trade agreements, including government procurement commitments, is to provide Canadian businesses, including small and medium-sized enterprises, with increased opportunities, including access to government procurement in foreign markets.

Ana Renart,
Director General, Market Access,
Global Affairs Canada

The following national and international trade agreements have government procurement obligations:

- Canadian Free Trade Agreement (CFTA)³
- World Trade Organization Agreement on Government Procurement (WTO-GPA)

3 Canada is a party to the *Canadian Free Trade Agreement* (CFTA) with the provinces and territories. The CFTA replaced the *Agreement on Internal Trade* (AIT) on 1 July 2017; however, the AIT continues to apply to procurements commenced before that date.



- North American Free Trade Agreement (NAFTA)
- Canada–European Union Comprehensive Economic and Trade Agreement (CETA)
- Canada–Chile Free Trade Agreement
- Canada–Colombia Free Trade Agreement
- Canada–Peru Free Trade Agreement
- Canada–Honduras Free Trade Agreement
- Canada–Korea Free Trade Agreement
- Canada–Ukraine Free Trade Agreement; and
- Canada–Panama Free Trade Agreement.

When more than one trade agreement applies, the most restrictive procurement provisions are followed.

The Treasury Board Secretariat maintains a listing of government procurement thresholds subject to various trade agreements. As explained in the PSPC Supply Manual, “[t]o determine coverage under the various trade agreements, the estimated procurement value (including the estimated amount of the Goods and Services Tax [GST] or the Harmonized Sales Tax [HST]), the client, the type of good(s) or service(s) or construction, and any exceptions or exclusions must be reviewed.”

Table 1 presents the thresholds in effect from 1 January 2018 to 31 December 2019 for procurements subject to various trade agreements.

Table 1 – Government Procurement Thresholds Subject to Trade Agreements,
1 January 2018 to 31 December 2019, C\$

Trade Agreement	Entities (Departments and Agencies)			Crown Corporations/ Government Enterprises		
	Goods	Services	Construction	Goods	Services	Construction
Internal						
CFTA	25,300	25,300	101,100	505,400	505,400	5,053,900
International						
Chile ¹	106,000	106,000	9,100,000	530,000	530,000	16,900,000
Colombia ¹	106,000	106,000	9,100,000	530,000	530,000	16,900,000
CETA	237,700	237,700	9,100,000	Section A 649,100	Section A 649,100	9,100,000
				Section B 731,400	Section B 731,400	
Honduras	106,000	106,000	9,100,000	530,000	530,000	16,900,000
Korea	100,000	100,000	9,100,000	-	-	-
NAFTA						
Canada/US	32,900	106,000	13,700,000	530,000	530,000	16,900,000
Canada/ Mexico	106,000	106,000	13,700,000	530,000	530,000	16,900,000
Panama	106,000	106,000	9,100,000	530,000	530,000	16,900,000
Peru	173,700	173,700	9,100,000	530,000	530,000	16,900,000
Ukraine	237,700	237,700	9,100,000	649,100	649,100	9,100,000
WTO-GPA	237,700	237,700	9,100,000	649,100	649,100	9,100,000

- Under the Canada-Chile, Canada-Colombia and Canada-Ukraine free trade agreements, there are “extended transparency” commitments to provide suppliers with information regarding procurements for which they are not eligible to bid but where (1) an open-tendering process is used, and (2) the procurement value exceeds C\$124,000 for Chile and Ukraine and C\$150,000 for Colombia.

Source: Table reproduced from Government of Canada, *Trade Agreements: Thresholds Update*, 21 December 2017.



Ana Renart, Director General of Market Access at Global Affairs Canada, said that the following four key principles drive Canada's approach to government procurement in trade agreements:

- non-discrimination, which ensures that foreign suppliers are not treated less favourably than domestic suppliers;
- transparency, which requires that certain laws, regulations, policies and information be published in contracting notices, tender documentation and award notices;
- impartiality, which stipulates that all participants in the procurement process must be treated fairly; and,
- accountability, which guarantees that participants have access to bid challenge mechanisms in the case of disputes.

Ms. Reza explained that pursuant to trade agreements, "[t]he minimum length of time a solicitation needs to be posted to satisfy trade obligations is stipulated in the trade agreements and is often extended if suppliers ask for extra time." Mr. Sreter mentioned that many of Canada's trade agreements contain obligations for federal procurement activities conducted by PSPC. Among these obligations, he noted obligations to ensure non-discrimination and national treatment, which "require PSPC to treat the goods, services and the suppliers of a party no less favourably than the treatment it provides Canadian goods, services and suppliers."

According to Mr. Sreter, "the rules and market access commitments of trade agreements place limitations on how government procurement can be used. For instance, international trade agreements limit the ability to use government procurement to promote Canadian industries and also prohibit domestic content requirements to procurements when the trade agreements apply." However, he pointed out that it is possible to remove government procurements subject to trade agreements from their application in certain circumstances, such as the National Security Exception and set-asides. Furthermore, Ms. Renart added that certain sectors – health and public services, research and development, shipbuilding and culture – are excluded from Canada's international government procurement obligations.

Ms. Renart explained that Canada is a founding party to the World Trade Organization (WTO) Agreement on Government Procurement (GPA), which came into force in 1981. There are now 47 WTO members of GPA, including large economies, such as the U.S., the European Union, Japan and Korea. According to Ms. Renart, "[t]he rules set forth in

the GPA serve as the basis of Canada's government procurement obligations in regional and bilateral free trade agreements." She informed the Committee that under the WTO-GPA, Canadian businesses have preferential access to procurement opportunities worth approximately \$2.2 trillion every year. SMEs can therefore take advantage of procurement opportunities in the other jurisdictions that are party to the WTO-GPA.

In response to a question from a Committee member, Pierre Marier, Director of Procurement, Trade and Environment at Global Affairs Canada, indicated that as a member to the WTO-GPA, Canada can, for the most part, exclude its small and minority-owned businesses from WTO procurement obligations, which gives the country "a lot of flexibility." He added that a GPA committee works on a program that looks at the policies for SMEs, and that there are the various set-aside programs that WTO parties have in place.

1.2.1 Fairness and Transparency

Regarding fairness and transparency, Mr. Sreter explained that most trade agreements "contain transparency provisions that call upon governments to make information concerning domestic law, regulations, policies, and administrative procedures readily available to domestic and foreign businesses." Among these provisions, he highlighted "the requirement for notices and trade documentation regarding individual procurement transactions, the requirement for award information for participating suppliers, with explanations supporting the award, and the obligation that the procurement was conducted fairly, impartially, and in accordance with the agreements."

Mr. Sreter also explained that other procedural rules were developed to enhance transparency and fairness by providing a clear set of rules to which parties need to comply, namely: conditions for participation by suppliers; rules for notices; the content of tender documentation; rules on qualification of suppliers and participation; procedures for treatment of tender documents, contract evaluation, and the awarding of contracts; the circumstances for the use of limited tendering, applicable time periods, and the publication of contract award information.



1.2.2 National Security Exceptions

The federal government may, to protect its national security interests, exclude a procurement process from some or all of its obligations under the relevant trade agreement(s)⁴ by invoking a National Security Exception (NSE).⁵ Mr. Sreter commented that invoking an NSE “is not intended to restrict competition—quite the opposite.” He said that over the past three fiscal years, 65% of contracts awarded by PSPC under an NSE were competitive, which represents 86% of the total value of all contracts awarded under an NSE.

The PSPC *Supply Manual* specifies that:

Procurements for which an NSE is invoked remain subject to other relevant regulations and governmental and departmental policies, which may include posting a Notice of Proposed Procurement or an Advanced Contract Award Notice on the Government Electronic Tendering Service where appropriate, though the security requirements may, in some cases, preclude such actions.

However, the WTO’s *Revised Agreement on Government Procurement* NSE states the following:

Nothing in this Agreement shall be construed to prevent any Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

1.2.3 Set-Asides

Mr. Sreter indicated that all trade agreements, with the exception of CETA, allow set-asides for small and minority businesses, which includes Indigenous businesses. Further, Ms. Renart highlighted that “all of Canada’s international trade agreements with procurement obligations include provisions that would allow domestic procurements to be set aside for aboriginal businesses.” However, CETA only allows set-asides for Indigenous businesses and is the only trade agreement that does not include an exception for set-asides for Canadian SMEs. Ms. Renart said that in CETA, the threshold for coverage of procurement is much higher than in other free trade agreements, and that there is no limit on the Indigenous set-asides. Mr. Sreter clarified that when a set-aside provision is invoked, the procurement is not subject to the obligations of the trade agreement.

4 National security exceptions also exist in the *Investment Act* to prevent foreign investment in areas injurious to Canadian national security. See Mathieu Frigon, *The Foreign Investment Review Process in Canada*, publication n° 2011-42-E, Ottawa, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 21 July 2014.

5 PSPC, “3.105. National Security Exceptions,” *Supply Manual*.

Mr. Sreter also explained that until July 2017, the Canadian government had restrictions on the use of set-asides for SMEs as the *Agreement on Internal Trade* did not allow them. However, he told the Committee that since the coming into force on 1 July 2017 of the CFTA, “set-asides are now permitted, provided that they are part of a small business set-aside program and that they are fair, open, and transparent.” He added that the federal government is now looking at options to utilize a small business set-aside, including existing programs, such as the Build in Canada Innovation Program and Innovative Solutions Canada.

Peter Burn, member of the CITT, argued that small business set-aside programs must not “discriminate on the basis of the origin or location within Canada from where the goods or services are supplied.” He also said that there are clear and broad set-asides for Indigenous businesses in trade agreements and that the CITT does not have jurisdiction and will not conduct an inquiry when such set-asides are invoked. According to the PSPC *Supply Manual*, bid challenges by suppliers for the Procurement Strategy for Aboriginal Business “should be dealt with according to established internal supplier complaint response procedures for procurements not subject to trade agreements.”⁶

In response to a question from a Committee member, Mr. Sreter explained that there are no determined thresholds within trade agreements for set-asides; it is rather left to the discretion of the party (the country) to determine those thresholds and the definition of SMEs. He added that Canada is currently looking at how to define SMEs and at the possible development of a set-aside program for SMEs.

1.3 Land Claim Agreements

Ms. Reza explained that “[s]pecific and legally binding procurement obligations arise out of the comprehensive land claim agreements, also known as modern treaties.” Canada has signed 25 modern treaties with Indigenous groups and territorial and provincial governments, and 20 of them contain specific federal government contracting obligations. However, these obligations are not in effect throughout Canada; rather they apply to large areas within Yukon, British Columbia, the Northwest Territories, Nunavut, northern Quebec and northern Labrador. She told the Committee that all government procurements are first reviewed against modern treaties before other considerations such as the Procurement Strategy for Aboriginal Business are applied.

Ms. Reza added that contracting obligations are “aimed at enhancing economic opportunities of the Indigenous groups benefiting from the agreement in their

6 PSPC, “9.40.55 Bid Challenge,” *Supply Manual*.



settlement areas. In 2016–17, a total of 365 federal contracts were awarded to Indigenous firms in modern treaty areas, with a contracting value of approximately \$31 million.”

1.4 Responsibilities

1.4.1 Treasury Board and Treasury Board Secretariat

The Treasury Board is responsible for establishing a government-wide procurement policy and strategy. The Treasury Board Secretariat (TBS) is responsible for reviewing procurement strategies requiring Cabinet or Treasury Board approval for consistency with policy requirements. These Treasury Board and TBS responsibilities are pursuant to the authority given in the *Financial Administration Act* and *Federal Real Property and Federal Immovables Act*.

Moreover, according to *Ms. Owens*, TBS “monitors government-wide performance in the management of procurement and can make recommendations to the Treasury Board on policy changes and on specific departmental transactions.”

1.4.2 Public Services and Procurement Canada

Public Services and Procurement Canada (PSPC) is the government’s central purchasing agent. As a common service provider, it provides departments and agencies with procurement assistance, and also oversees a number of policies related to procurement. As explained by *Ms. Reza*, PSPC procures close to 80% of the federal government’s annual procurement expenditures on behalf of client departments and agencies, amounting to approximately \$18 billion in goods and services.

As outlined in the *Common Services Policy*, PSPC provides both optional and mandatory common services to departments and agencies. The *Department of Public Works and Government Services Act* gives the Minister exclusive responsibility for the procurement of all goods as described in the Act. Accordingly, other departments and agencies may only procure goods either when their legislation specifically permits it or when an appropriate delegation of authority has been made by the Minister of Public Services and Procurement. *Ms. Reza* explained that the Minister has delegated to departments and agencies the authority to acquire goods under \$25,000. She added that PSPC has exclusive responsibility for the procurement of certain services such as printing and translation.

The *Code of Conduct for Procurement* applies to all transactions entered into by PSPC, either for their own procurements or on behalf of a client department. The PSPC *Supply*

Manual is primarily intended for the use of PSPC officials since this department is a common service provider. It contains policies, procedures, references to acts and directives for the procurement of goods, services and construction.

The *Standard Acquisition Clauses and Conditions (SACC) Manual* is a complementary document to the *PSPC Supply Manual*. The manual contains a list of procurement clauses and general conditions, as well as instructions on how these clauses and conditions are used.

The *Public Works and Government Services Canada Policy on Procurement* applies to all PSPC employees involved in the corporate procurement activities of PSPC. It is not intended to apply to the procurement activity of other federal organizations in PSPC's capacity as a common service organization.

In response to questions from Committee members, officials explained that Employment and Social Development Canada (ESDC) is consulting with different stakeholder groups across Canada to develop, with the support of PSPC, a modernized fair wages policy.⁷

Mr. Sreter stated that "[o]ne of PSPC's options in the procurement modernization effort is to look at ethical sourcing. [PSPC is] looking at revisiting [its] code of conduct for procurement and how [it] can incorporate a fair wages policy within that code, which would then be applicable to all PSPC procurements at that stage." *Ms. Reza* highlighted that PSPC will look at the way it manages its contracts once ESDC has created the modernized fair wages policy and that PSPC currently abides with provincial legislation regarding fair wages when it delivers procurement of goods and services in various jurisdictions.

Ms. Reza explained that after a client department or agency has identified its need, PSPC works with the department or agency to select the appropriate procurement strategy and the socio-economic levers that could be used, such as the Procurement Strategy for Aboriginal Business. She added that PSPC "manages the contract, monitors the execution of the contractor's obligations, and seeks to mitigate risks, such as a delay in the production or delivery of a good."

As for the trade agreements, *Mr. Sreter* indicated that "PSPC is required to comply with the specific procedures of each applicable trade agreement when completing certain procurements." He added that PSPC has to therefore determine if the procurement is

7 House of Commons, Standing Committee on Government Operations and Estimates [OGGO], *Evidence*, 1st Session, 42nd Parliament, 104th Meeting, 31 October 2017, 1142 (Arianne Reza, Assistant Deputy Minister, Procurement, PSPC) and OGGO, *Evidence*, 1st Session, 42nd Parliament, 105th Meeting, 2 November 2017, 1235 (Matthew Sreter, Executive Director, Strategic Policy Development and Integration, PSPC).



subject to one or several trade agreements and ensure that it complies with all applicable agreements.

Regarding land claim agreements, Ms. Reza said that PSPC must evaluate every federal procurement to determine if land claim contracting obligations apply and if they do, how they affect the procurement strategy.

Ms. Reza indicated that PSPC uses an independent third-party fairness monitor⁸ for certain complex and high monetary value procurement. The fairness monitor's role is "to provide an unbiased and impartial opinion on the fairness of the process." According to PSPC's 2016-17 Departmental Results Report, PSPC published 24 fairness monitoring final reports, and launched 26 fairness monitoring engagements on top of the 80 on-going engagements. Further, "lessons learned from previous fairness monitoring engagements were shared with a variety of procurement officer audiences throughout the year."

Finally, PSPC administers the Office of Small and Medium Enterprises whose objective is to increase SME access to federal procurement contracts, reduce barriers, simplify the contracting process, and provide tools to suppliers interested in doing business with the federal government, explained Ms. Reza.

1.4.3 Shared Services Canada

Ms. Owens explained that Shared Services Canada is a common service provider for departments and agencies and has exclusive mandates for goods and certain information technology services.

1.4.4 Indigenous and Northern Affairs Canada

Sheilagh Murphy, Assistant Deputy Minister of Lands and Economic Development at Indigenous and Northern Affairs Canada (INAC), explained that her department is responsible for the Procurement Strategy for Aboriginal Business and that it provides advice and guidance to federal departments and agencies on its application. To do so, the department developed a national coordinators network composed of more than 100 members. Moreover, INAC registers qualified Indigenous businesses in an online directory – Aboriginal Business Directory – and verifies the eligibility of firms through compliance audits before and after they receive federal contracts. The department leverages grants and contributions "to allow Indigenous organizations to build and

8 The Fairness Monitoring Program "provides client departments, government suppliers, Parliament and Canadians with independent assurance that [PSPC] conducts its activities in a fair, open and transparent way."

explore business strategies with other jurisdictions and the private sector" and it prepares Indigenous businesses to compete through grants and contributions funding.

According to Ms. Murphy, the Procurement Strategy for Aboriginal Business officials work in collaboration with "land claim agreements officials and other departments to ensure that comprehensive land claim agreements' obligations are respected and that Indigenous participation is maximized." Furthermore, INAC ensures the respect of Canada's commitments in international trade agreements.

1.4.5 Departments and Agencies

According to the Policy Framework for the Management of Assets and Acquired Services, deputy heads of departments and agencies are accountable to their respective ministers and to Treasury Board to ensure that the management of assets and acquired services provides value for money and demonstrates sound stewardship in program delivery.

Ms. Owens indicated that all departments and agencies can, within financial thresholds delegated to their ministers, procure goods and services. However, Treasury Board ministers can exercise their oversight role over certain transactions as Treasury Board can decide on exceptions to these limits, "which require departments to seek [Treasury Board] authority for emergencies or other department-specific contracting requirements, such as bulk fuel purchases or specialized provisions for construction."

Ms. Reza said that above a \$2 million threshold, departments and agencies can either use PSPC's services or ask Treasury Board for contracting authority.

Ms. Owens added that departments and agencies have to ensure that "operational requirements take pre-eminence, that competition is the norm wherever possible, that other national objectives, including aboriginal or socio-economic development priorities, can be supported, and, that departments [and agencies] comply with the government's trade agreement obligations."

1.4.6 Procurement Ombudsman

In April 2006, the federal government introduced the Federal Accountability Act and its associated action plan, which included the appointment of the Procurement Ombudsman. The Office of the Procurement Ombudsman (OPO) was created at the same time through an amendment to the *Department of Public Works and Government Services Act*. The OPO became fully operational in May 2008 with the coming into force of the Procurement Ombudsman Regulations (2008) which provide the parameters of how the Procurement Ombudsman's authority is to be carried out.



The OPO operates at arm's length from PSPC and all other federal organizations. The Procurement Ombudsman's mandate is government-wide and it is to:

- Review any complaint with respect to the award of a contract for the acquisition of goods below \$25,300 and services below \$101,100
- Review any complaint with respect to the administration of a contract, regardless of dollar value
- Review the practices of departments for acquiring goods and services to assess their fairness, openness and transparency and make recommendations to improve those practices
- Ensure that an alternative dispute resolution process is provided, if requested and agreed to by both parties.⁹

Lorenzo Ieraci, Interim Procurement Ombudsman at the OPO, commented that the OPO was created to address issues that small businesses encounter with contracts of low dollar value. The OPO must determine within 10 business days of receiving a complaint if it will be reviewed. First, the OPO tries to facilitate the resolution of the issue and if this is not possible, the Procurement Ombudsman reviews the complaint to see if the contract has met all regulatory requirements. Then, the OPO prepares a report and sends it to the Minister of Public Services and Procurement, the complainant and the head of the contracting department or agency. In instances where the complaint does not meet the regulations criteria, the Procurement Ombudsman informs the contracting department or agency of the complaint.

Mr. Ieraci told the Committee that the Procurement Ombudsman must also ensure that a dispute resolution process or service is made available to the supplier and to the federal department or agency. He added that either of these parties can request such a resolution. On 17 April 2018, the Committee reviewed the Order in Council appointment of the new Procurement Ombudsman, Alexander Adrian Jeglic. During that meeting, Mr. Jeglic said that although the OPO has "a successful track record in providing dispute resolution services and in mediating disputes," he would like to see these services leveraged by more federal organizations and suppliers. He added that in the past, alternative dispute resolution services were successful 23 out of the 25 times they were used. However, he mentioned that the OPO is developing a plan to make alternative dispute resolution services more available to a larger community through first, enhanced caseload and second, the creation of a unit dedicated to these services.

9 Office of the Procurement Ombudsman [OPO], "Our mandate," *The Office*.

In response to a question from a Committee member, Mr. Ieraci said that the OPO's monetary thresholds (less than \$25,300 for goods and less than \$101,100 for services) for investigations of contracts in the acquisition of goods and services were established so that the OPO can help in situations where the CITT is unable. Mr. Ieraci added that he was comfortable with the current monetary threshold levels. He also said that the difference between the OPO and the CITT is that the OPO looks only at contracts once they had been awarded, whereas the CITT evaluates the procurement process at the time of awarding a contract.

As stipulated in the *Department of Public Works and Government Services Act*, the Procurement Ombudsman must prepare at the end of each fiscal year a report on its activities. In his most recent report, he identified the top five most common issues¹⁰ heard by his office from suppliers, which are

- concerns related to the method used by federal organizations to select the winning bid, including restrictive or unfair evaluation criteria;
- concerns related to the solicitation phase of the procurement process;
- concerns regarding how bids were evaluated;
- concerns related to how suppliers or federal officials were performing their respective contracting roles and responsibilities¹¹; and
- concerns focused on the quality and content of statements of work produced by federal organizations.

1.4.7 Canadian International Trade Tribunal

The Canadian International Trade Tribunal (CITT) is a quasi-judicial tribunal with the powers of a superior court, which reports to Parliament through the Minister of Finance. It is responsible for safeguarding the integrity of the federal government's procurement processes and is the mechanism by which Canada enforces the implementation of the procurement obligations covered by trade agreements.

10 OPO, *Annual Report 2016-2017*, p. 30.

11 In its report, the OPO noted that "[i]nterestingly, this category is one where OPO heard from federal officials who contacted the Office directly to raise questions and concerns regarding suppliers: defaulting on contracts due to poor or under-performance, failing to complete the work stipulated in the contract or not meeting deadlines." See *Ibid.*



As described in its *Procurement Inquiries: A Descriptive Guide*, "[t]he Tribunal considers complaints against solicitations and awards or proposed awards on a designated contract." In reviewing procurement inquiries, "the Tribunal considers issues such as whether bids were evaluated fairly and according to the stated terms of the procurement process itself. The Tribunal may recommend remedies and award costs."

Mr. Burn told the Committee that the CITT is composed of seven members and supported by about 50 people, including lawyers, economists, financial analysts and registry and editing officials. Eric Wildhaber, Senior Counsel at the Secretariat to the CITT, clarified that despite the word "international" in its name, the CITT is a domestic tribunal. Mr. Burn explained that CITT is mandated to act in the following five areas:

- It enquires into and decides "whether dumped and/or subsidized imports have caused, or are threatening to cause, material injury to a domestic industry."
- It enquires "to determine if goods are being imported into Canada in such increased quantities and under such conditions as to be a principal cause of serious injury or threat to the domestic producers of like goods."
- It enquires into economic and tariff matters referred by the Governor in Council or the Minister of Finance.
- It hears and decides appeals of decisions made by the Canada Border Services Agency under the *Customs Act* or under the *Special Import Measures Act* and made by the Minister of National Revenue under the *Excise Tax Act*.
- It is "the designated reviewing authority for certain federal procurements pursuant to the various trade agreements." It only has power over federal government contracts that qualify as "designated contracts," which are contracts above a certain value, issued by specific federal government entities and involving specific goods and services.

Mr. Ieraci explained that suppliers can reach out to the CITT for complaints related to contracts worth \$101,100 and up, and where trade agreements apply. Mr. Burn indicated that CITT "receive[s] complaints from companies and individuals dealing with the federal government who feel that they have been improperly or unfairly treated during the course of a procurement process." He added that approximately 70 complaints related to procurement are sent to CITT annually and that CITT strives to provide a fast, cost-effective, fair and transparent review for both domestic and foreign

suppliers – many of whom are SMEs. For example, Mr. Wildhaber said that of the 70 complaints CITT received last year, 45 were from SMEs.

As for the number of cases involving PSPC, Mr. Sreter informed the Committee that 0.3% of PSPC's contracts went before the CITT. He added that over the last three years, the CITT received 130 complaints involving PSPC contracts and that a very small number of those were found valid.

Mr. Burn explained that once the CITT determines that a complaint is valid, it recommends to the government one of a range of remedies and can also provide the deputy head with comments and observations on the process. He added that pursuant to the legislation, the recommendations must be implemented to the greatest extent possible.

Finally, Mr. Burn commented that in the case of small and Indigenous businesses, "an annex in NAFTA explicitly states that the procurement chapter does not apply to procurements in respect of 'set-asides for small and minority businesses.' Those are practices that began in the United States well before NAFTA, the small business set-aside back in the 1950s and the minority program for businesses owned by African Americans and Native Americans in the amended statute in the 1970s."

1.5 Data on Federal Procurement

Ms. Owens told the Committee that information on government procurement contracts is available through sources, such as the open government portal, purchasing activity reports and reports on the proactive disclosure of contracts over \$10,000. On that topic, Ms. Reza said that "solicitation is launched and posted on [PSPC's] buyandsell.gc.ca website, which makes publicly available PSPC's procurement opportunities, both active and closed." Mr. Sreter said that "PSPC ensures that its policies and standard contract clauses, including information related to procurements themselves and procurement awards and statistics, are available and accessible to the public on its website."

As for data on foreign procurement, Ms. Renart explained that, unfortunately, most governments do not report on foreign procurement, and Canada does not track its exports. She added that foreign procurement would be challenging to track.

Finally, Mr. Wildhaber told the Committee that the CITT does not track its work with SMEs and suggested that the Tribunal start doing so.



1.6 Committee Observations

The Committee members recognize that the federal procurement process is very complex and can be difficult to navigate for most Canadian business owners, especially SMEs and Indigenous businesses. They encourage the Procurement Ombudsman and the Canadian International Trade Tribunal to continue outreach activities, and to work collaboratively to improve federal procurement.

The Committee members encourage SMEs to take advantage of government procurement opportunities within the federal government by frequently consulting the buyandsell.gc.ca website for tenders and by using the resources of the Office of Small and Medium Enterprises. As well, SMEs should consider procurement opportunities in other countries where Canada has signed international trade agreements, such as the *World Trade Organization Agreement on Government Procurement*. Most trade agreements include transparency provisions that give SMEs information on procurement opportunities and details about the award of a contract, such as evaluation criteria and rules on qualification of suppliers.

Furthermore, the Committee members believe that it is important that all Canadians, including business owners and suppliers, have access to reliable data on federal procurement in a timely fashion. They therefore encourage the government to continue to publish relevant data on procurement on federal websites, such as the open data portal.

CHAPTER 2: ALTERNATIVE APPROACHES TO PROCUREMENT

There is no one-size-fits-all procurement methodology. Many different models exist, but at the end of the day, the common goal needs to refocus on open, fair, and transparent procurements that result in the best product at an acceptable cost.

André Leduc,

Vice-President of Government Relations and Policy,
Information Technology Association of Canada

2.1 The Agile Approach

The “agile” approach traditionally refers to a project management methodology that involves an iterative or repetitive approach to project planning and development. It consists of breaking down large projects into smaller and more manageable portions or iterations that can be easily reviewed and critiqued by a project team. The conclusions of the review and critique then inform the project team of the next steps to be performed in executing the project. This approach enables a project team to respond rapidly to problems as they arise throughout the course of the project. Rapid problem identification and response can save resources and provide greater assurances that a project will be delivered on time and within budget.

Andy Akrouche, Managing Partner of Strategic Relationships Solutions Inc., noted that the agile approach is “not the same as the waterfall approach of the past. It’s really a series of small waterfalls ... that allow people to build on what they have already done by going back and reworking or adjusting, as required, on a go-forward basis.”

One of the mandatory elements of the agile approach is a “really clear description of the outcome you want—a clear articulation of the problem, and a clear definition of the outcome,” shared Dan Murphy, President of AdaptiveOrg Inc., appearing as an individual. He went on to say that “it’s difficult sometimes for leaders to get that right on the first go-round. We refer to it as a ‘strategic intent’: we start with something called strategic intent and we say that we intend to get this outcome. Then you engage this high-calibre team and you see if you can get that outcome.” Finally, he added that it’s important to have “a very fast feedback loop. You need to do something small with a fast feedback loop to get that outcome.”



André Leduc, President, Government Relations and Policy at the Information Technology Association of Canada (ITAC), shared that in his opinion, “the reason why the private sector is so keen on the [a]gile method is because it has significantly contributed to its success.” He added that “[o]ur banks, for example, which are very large companies, have found that adopting the [a]gile processes had a direct effect on the ability to save a lot of money.” Some participants of the Build in Canada Innovation Program shared that they were also supportive of the federal government following an agile approach.¹²

2.1.1 Agile Procurement

In the context of federal procurement, an agile approach means that government can have a long-term vision for a large or complex procurement, but that it achieves this larger objective through smaller procurements over shorter periods of time, which could improve access for SMEs.

Several witnesses discussed what an agile procurement process looks like. Mr. Murphy noted that an agile approach to procurement would involve “a small team [for] very small-value bids, such as \$50,000 bids, for a period of six to 12 months.” As part of the process, a vendor has to provide feedback to the team, which can then be used to write the bid and find ways to lighten the process. As another example, Mr. Leduc shared that the government’s agile pilot project for the open-by-default procurement was about three months long from beginning to end. He explained that the process involved bringing together key individuals from different units at the start of the process, including the business unit that would use the technology, the IT [information technology] unit, the procurement unit and the legal unit. This agile procurement initiative was announced in January 2018.¹³

2.1.2 The Agile Procurement Team

Another mandatory element to achieve a successful outcome with the agile approach is having the right people on a cross-functional project team, in other words a “tiger team,” explained Mr. Murphy. He stated, “You need your procurement person; you need legal and policy on the team; you need your business owner, because the business owner has to define the problem; and you potentially would need IT if it’s a technology solution.”

12 OGGO, *Evidence*, 1st Session, 42nd Parliament, 113th Meeting, 7 December 2017, 1245 (David Long, Chief Executive Officer, SageTea Software and Dr. Suhayya Abu-Hakima, Co-Founder and Chief Executive Officer, Amika Mobile Corporation).

13 Treasury Board of Canada Secretariat, “Government of Canada announces a new agile procurement initiative,” News release, 4 January 2018.

Regarding a multi-disciplinary team, Mr. Leduc noted, “[i]f we bring the whole team together from the outset in a room to make a decision, we avoid any problems that may arise. The idea is to bring together all the members of the team—lawyers, engineers, procurement officials, and so on—for half a day to determine our objectives and procurement needs.” The issue with the current approach, he explained, is that

[i]n the government, for example, when an operational unit needs something, it submits a request to the technology group, which then goes to procurement officials. They turn to the lawyers to see whether they have the right to proceed with the procurement. If lawyers conclude that it is problematic, the request goes back to the technology group and then to the operational unit. The process then starts all over again from the beginning. There was no meeting with the entire team in one room at the same time, and as a result, there are new delays when, for example, lawyers come back three months later, saying that there is a small problem and it is impossible to proceed. If that had been brought up at a meeting at the outset of the process, the situation could have been very different.

Lastly, Mr. Murphy indicated that these teams need to be supported by clear leadership and vision from upper management, in order “to clear the path” and to ensure that they do not work in isolation.

2.1.3 Early Engagement with Suppliers

Using a collaborative approach to identify your problem or need in order to figure out the outcomes or requirements you are trying to achieve is an important element of the agile approach. “The first thing we do in agile is say we need to understand the problem,” noted Mr. Murphy. Many witnesses discussed this aspect of the agile approach alongside an outcomes-based procurement approach.

Ms. Reza noted that the agile approach can shorten the procurement process. In her view, “[a]gile procurement means that [the federal government can] work with the SMEs, with the sector, to figure out what the issue is.” Further, in trying to solve a problem or address a need, this approach allows governments to consult industry, which cuts down on the lengthy process of government prescribing in detail what it needs. Mr. Murphy noted the importance of ensuring the SME is involved in the agile procurement team, in order get more immediate feedback on what is working. According to Mr. Leduc, the agile principle is “go lean, get everybody in the room, and focus on what the outcome or the output is supposed to be. Don’t focus so much on what you think the right technology is to provide the service, but on the outcome.” He argues that this approach would “open up the door to more and more bidders.”

Several witnesses agreed that there is a need for early engagement with industry in the federal procurement process. Mr. Leduc shared that “ITAC has also been calling on the



government to better engage the ICT [information and communications technology] community earlier in the procurement process, at the outset of procurement discussions, not further down the line when the decisions on what to procure and what IT to procure have already been taken." He explained that industry can "provide and share industry knowledge and expertise, which is expanding at an ever-increasing rate as new technologies and solutions are being frequently developed and deployed."

For example, Mr. Leduc noted that "[s]ometimes before the procurement process even starts, [the government has] made a decision on what [it's] going to procure; that technology might already be outdated, and [it may] take ... three years before [the government] start[s] implementing the technology." He added that it would be challenging to set a procurement requirement for an innovative product if the industry that delivers this innovative product has not been engaged. By engaging industry, he noted, "industry will be able to say what it's doing today and what it will be able to provide in the next generation in the way of an application or solution."

Nevin French, Vice-President of Policy for ITAC, shared that "[f]or SMEs, especially in fields that are transforming very quickly, such as cybersecurity, keeping those parameters open and not being too prescriptive allows for more people to apply, and then maybe the government could look at a round two ... to then narrow things down."

In contrast, Andrew Kendrick, Vice-President of Operations at Vard Marine Inc., argued that early engagement may increase the cost of doing business for SMEs, and that they "cannot afford to send people across the country for consultation sessions." He shared that the "government is increasingly using requests for information, industry consultation sessions, and releases of draft requests for proposals to solicit input from industry." He noted that, it is worthwhile "to try to ensure that a final request for proposals is as good as possible, but this, from [their] perspective as an SME, is free consulting. It takes time. It takes money." As well, he cautioned that "it skews the outcome of the process towards larger companies that have lobbyists who can afford to do this [consultation]." He suggested that this approach may make procurement more complex. Mr. Akrouche is of the same opinion, noting that, "It's a really important point to say that SMEs don't have the mechanisms to participate in this very long process and to try to influence it."

Further, Mr. Kendrick noted that the government has been making increasing use of supply arrangements and standing offers as a way of simplifying things, potentially, but that it is not always conducted terribly well.

2.1.4 Ongoing Dialogue

One tenet of the agile approach is the ability to have more interactive dialogue, commented [Ms. Reza](#). Regarding this dialogue, [Kirsten Tisdale](#), Managing Partner, Government and Public Sector at Ernst and Young LLP, encouraged the federal government to “[c]reate the ability to co-develop and communicate with vendors throughout the procurement process.” She added that “[w]hether those are large or small, we need to have a much more open process that allows that communication back and forth.” She shared her experience of a recent federal procurement process under the current approach, noting that 18 months passed between when they were first told they were the lead incumbent and the next conversation. She explained that over an 18-month period, what government was originally trying to procure compared to current-day needs “is almost unrecognizable.” She pointed out that “[i]f a conversation had been allowed through the life of that [18-month] process, we could have continued to evolve our solution so that it stayed current.”

[Ms. Tisdale](#) summarized that “when you do enter into some sort of [solution] relationship with a provider, that technology's going to change, business needs are going to change, and demographics are going to change. Things are going to happen, so you build regular checkpoints into that process so you can continue to evolve it so there's value on both sides.”

2.2 Outcomes-Based Procurement

[Mr. Akrouche](#) highlighted that “[t]here is no one size that fits all [approach]. At times, the government needs to be prescriptive; at other times, it needs to be outcome-based.” He added that “[i]n every procurement, there should be things that are prescribed because you need them now and you understand them fully.” However,

[w]hen you don't have a high degree of certainty about these things, don't hide behind assumptions ... at that point, you need to be outcome-based, and for an outcome-based approach to be successful, you need a relationship management framework, a stakeholder management framework, because you need to work together to resolve these unknowns and gain certainty over time so that you can do what needs to be done.

[Elyse Allan](#), President and Chief Executive Officer of GE Canada and a member of the Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders, suggested that the government consider outcomes-based procurement, which specifies the desired outcome, rather than the specific equipment or services that are to be purchased. This, she noted, was highlighted in the February 2017 report of the Advisory Council on Economic Growth, *Unlocking Innovation to Drive Scale and Growth*.



As well, [Pierre-Yves Boivin](#), Vice-President of Strategy and Economic Affairs for the Fédération des chambres de commerce du Québec, suggested that the federal government should implement outcomes-based procurement. Mr. Boivin shared that “[m]any governments throughout the world are moving their procurement policies toward what is called strategic government procurement [or outcomes-based procurement]. Rather than seeking to acquire particular goods or services and asking enterprises to meet very precise specifications, governments ask for proposals to resolve a problem.” He explained that this “allows various businesses to get together and put forward innovative solutions or products that are not used in the standard way, in order to meet a particular need. By focusing on projects or problems to be resolved, governments can encourage this type of solution and allow new businesses to have access to public contracts.”

In implementing outcomes-based procurement in the federal government, [Mr. Murphy](#) suggested that some existing procurement vehicles could be reworked. He noted that PSPC has a solutions-based informatics professional services procurement vehicle, which is a standing arrangement for solution-based, outcomes-based procurements. In his view, there is a capability issue, and most of government does not know how to write a problem statement bid.

2.2.1 Reducing Requirements

With the current approach, [Mr. Leduc](#) argued that “being highly prescriptive about what the government seeks while attempting to drive down costs can have a longer-term negative downstream impact on the supply chain, which lessens the potential for positive socio-economic impacts and stifles innovation.” He noted that being highly prescriptive will reduce the number of bidders.

According to [Mr. Leduc](#), another impact of being overly prescriptive is that for long requests for proposals (RFPs), it could take the government close to a year just to evaluate bids, as a single bid may be hundreds of pages long. He shared that they “continue to see 300 and 400 IT specifications and requirements built into RFPs.” He emphasized that “SMEs can’t survive the amount of time required to invest into a procurement, to go through what all the requirements are and to review those requirements. It’s taking them from what should be a three- to four-month window into something that goes well over a year, sometimes two years or even three years.”

He also reasoned that under the current approach, “[t]he incentive for the procurement officers is that they don’t want to have to go through 20 bids of 200 pages. They don’t have the resources to take that on.” As a result, “[t]hey create an environment that gets it down to one, two, or three bidders” so that it becomes more manageable for them in

their process. As well, [Marc LeClair](#), Bilateral Coordinator of the Métis National Council, suggested that PSPC "tries to ... use the pre-qualification process to limit the number of bidders ... to make their system more efficient." However, according to [Mr. Leduc](#), if the government would "move to a capped 10- or 15-page RFP process, the bids coming in will be 20 to 25 pages, and now [procurement officers] can review 20 to 30 bids."

Regarding contract flexibility, [Ms. Tisdale](#) shared that under the current federal procurement approach it is difficult for participants to propose alternative and creative solutions, and there is no incentive to do so. The reason, she explained, is that there is no way of scoring that element and that "when people do come with a creative, higher-value solution ... that they usually get disqualified, because the government doesn't know what to do with it." [Mr. Leduc](#) agreed, noting that with the current procurement approach, the government is missing out on potential innovation solutions because it is being too prescriptive.

2.2.2 Achieving Better Outcomes

According to [Mr. Kendrick](#) the general impression of Canadian government procurements is that the process sets out to apply sound principles of fairness, openness and transparency. He added, however, that "the internal problems of the system mean that it often achieves quite poor outcomes and all too frequently manages no outcomes at all."

Regarding outcomes, [Ms. Tisdale](#) argued that the "[g]overnment doesn't have the corner on good ideas." Instead, it needs to define the outcomes that it is seeking and give the private sector the space to advance creative and innovative ideas. She believes that the current approach is overly rigid and does not allow people to drive value for government, adding that the federal government has "dumbed it right down to the lowest common denominator from a risk aversion perspective." As a result, she cautioned that "[t]he business stakeholders ... are not owning and leading the process." [David Long](#), Chief Executive Officer of SageTea Software and a Build in Canada Innovation Program participant, told the Committee that if the federal government had outcomes-based RFPs, Canadian companies would come out of the woods and deliver huge value. In his view, this approach would be a huge success.

[Mr. Murphy](#) shared the Amazon HQ2 RFP with the Committee. He highlighted that for a very large investment from an Amazon perspective, amounting to billions of dollars, the RFP was written in eight pages. He noted that "[t]he RFP doesn't get into much detail about specifics ... it just says they want a new headquarters, and they have this investment opportunity they're going to make.... They articulate their problem and then they clearly articulate the opportunity for the bidders, and then it goes out."



Mr. Murphy explained that the federal government also offers opportunities similar to the Amazon example that offer enormous economic benefits. He argued that the federal government will attract the best talent if it articulates its needs and legal requirements, but that policy should be left out. "If the industry comes back with an extremely detailed response, it shows you their capability, and it should be part of your evaluation criteria," he stated. He suggested that this would also "hugely de-risk [the government's] procurements." Mr. Leduc shared a similar view, noting that if Amazon can have short RFPs for large projects, there is no reason that the federal government cannot do the same. He urged the government "to focus on the outcome and say, 'We need this product to be able to do this. It must meet these eight or nine requirements.'"

Mr. Akrouche shared that in awarding a contract, "the vendor that is going to do the best job is the vendor that has its corporate strategy, its capabilities, its resources, its assets, its soft skills, and its management preference in a much better alignment with your stated outcome than the other vendors. The idea is to assess these against your strategic outcome." In its brief submitted to the Committee, Thinking Big, a Charlottetown-based SME, recommended that the federal government "[f]ocus on buying solutions and outcome-based professional services."

2.2.3 Joint Solution Procurement

Joint solution procurement "isn't for every project ... but it's for those large, complex ones," shared Ms. Tisdale. According to her, "[i]f we think about Phoenix, about the e-procurement process, and about what [the government is] trying to do in terms of a lot of the digital agenda, [it has] an outcome [it is] trying to achieve." Under the joint solution procurement approach, the government would define that outcome, and define the constraints it is operating under, and then put it out there to let the vendors come through with solutions. She noted that "It's a very competitive process. It's very transparent. It follows all the rules." She highlighted however that "[i]t requires a very smart government team to manage [the] process, but what you get at the end of it is a co-developed solution that's going to ideally meet your needs. That process has been well established, and it works exceedingly well, but you need to have the talent on the government side to really pull that off." Mr. Akrouche told the Committee that joint solution procurement is a very collaborative process that "comes down to a very competitive process between the final two vendors."

Ms. Tisdale shared some success stories of British Columbia's experience with joint solution procurement, including a revenue collection system project, a modernization of health benefits, and a project connecting all the First Nations communities, schools, hospitals, towns and libraries in the province to a high-speed network.

In order for this approach to be successful, Ms. Tisdale explained that “the first people to get on board were cabinet and Treasury Board.” She added that “leadership needed to be backstopped and supported there, because there was going to be learning going on.” Further, she noted, “every one of [the] deputy ministers [involved] had performance measures tied to the success of that group.” She pointed out, “it would have been very hard for me to do my job without the political support and without their being incented and committed to doing it.” The next part, she explained, was starting in areas where they thought they could get some “wins.” She added, “we carefully picked the first four or five projects or the programs that we went after, and we worked exceedingly hard to get them right.” After those successes, they earned a lot of public support, and then it got easier to do.

2.3 Relationship Management

Mr. Akrouche stated that most complex business arrangements do not meet stakeholders’ expectations in the long term and that there are two main reasons for this situation. According to him, the first reason is that these arrangements are structured as rigid transactions that do not respond well to changes, and the second reason is that “top-down, command and control, compliance-based” oversight models do not favour collaboration.

Mr. Akrouche argued that elements of the agile approach have been used by government before, including benefit-driven procurement, common purpose procurement, joint solution procurement, performance-based contracting, smart procurement and commissioning. However, he highlighted that the reason government hasn’t been successful in achieving the desired procurement outcomes, is that an insufficient emphasis has been placed on relationship management. He added that “[t]he key to success really lies in focusing on the relationship as the pivotal point at which procurement and contract management actually occurs. In recognizing this pivotal role, we need to, if you like, source relationships instead of deals or transactions.”

Ms. Tisdale noted that for long-term contracts, its “one thing to actually sign a contract, ... but the value over the next three years, five years, or 10 years tends to erode, so we need to put just as much energy, focus, and talent into the management of that long-term relationship.” She highlighted the importance of having the talent, the incentives and the capability to do that lifetime contract management.

Mr. Akrouche informed the Committee that in 2014 PSPC and the Department of National Defence launched new procurement regimes based on “relational contracting,”



which recognize that a contract is initially incomplete and needs to be influenced by the relationship of the parties.

In speaking about his proposed approach, Mr. Akrouche indicated that it relies on a number of elements. He explained that the first element involves selecting vendors using a “strategic fit assessment,” which consists of an objective assessment of “whether there is a match between [the intended outcomes and benefits] and the capabilities, strategies, and management structures of [a] vendor.” The second element involves evaluations of the internal processes and systems of organizations and their ability to collaborate. He added that under a relationship-based approach, the contract and its evolution is governed by the relationship itself whereas under the traditional procurement approach, it is the contract that governs the relationship among parties.

Lastly, Mr. Akrouche indicated that successful business arrangements need to include a relationship management framework that sets out clear indicators for measuring the performance of the parties’ relationship. According to him, one problem with performance-based contracts is that their continuation depends on meeting specific performance targets, which may become outdated over the course of a contract. As a result, he stressed the importance of being able to readjust performance targets within the relationship management framework.

2.4 Alternative Approaches in Other Jurisdictions

According to Mr. Leduc, a number of municipalities have been successful in implementing agile and other alternative approaches to IT procurement, in part because they are smaller and rely more on data and input from vendors. He also identified Estonia and the U.K. as two jurisdictions that have successfully adopted alternative approaches to procurement and changed the way they do business with the IT sector. With respect to the U.K., he explained that the government decided to move away from a rules-based approach to an “outcomes-based model, shorter procurement time frames, more piloting [and] more experimentation.”

Dr. Cass Chideock, Deputy Director, Small Business Policy Team, Crown Commercial Service (CCS), shared that the U.K.’s CCS is focused on developing framework contracts. She explained that these contracts operate like a catalogue from which public sector organizations can then buy, through “mini competitions” or direct awards. Dr. Chideock noted that 25% of central government contracts have gone through framework agreements established by the CCS. According to her, CCS does “work to aggregate demand for fuels, or office supplies, or marketing and communication spend, but where it starts to get more specialized, that kind of procurement process will typically be owned by department.”

According to Dr. Chideock, the U.K. is also piloting a purchasing platform that they have been calling the crown marketplace, which is similar to the U.S. GSA Advantage Program. She described the purchasing platform as resembling an "Amazon" for government. Currently, it contains mostly technology-related goods. The U.S. GSA Advantage Program, also known as the Federal Supply Schedule Program or the Multiple Award Schedule Program, provides federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying.

2.5 Obstacles to Implementing Alternative Approaches in Federal Procurement

2.5.1 Talent

According to Ms. Tisdale, the federal government may not have the talent required to implement alternative approaches to procurement that rely on a greater involvement from the private sector. She stated that the federal government must consider a number of factors with respect to talent management, including the skill sets that are needed, and the manner in which procurement officers are recruited, trained and compensated. She added that an assessment should be made as to whether procurement should be a competency of the federal government or other organizations. Although he did not disagree with the proposal to bring in more talent, Mr. Leduc was of the view that there is a large pool of talented people within the public service, noting that more than 60% of public servants have a university or college degree.

Ms. Tisdale made two proposals to ensure that the federal government has the talent required to successfully use alternative approaches to procurement. First, she proposed the creation of "a very small, smart, hand-picked group of the best people ... from the private sector," with experience in the legal, human resources, labour, finance and relationship management fields, among others. Such a team could conduct a number of procurement processes using alternative approaches in order to model the approach and build the capability in-house. She added that a training program for the public service could be created to ensure these models are used across the federal government. Her second proposal involved the development of a human resources framework for the development, maintenance and retention of future procurement officers. She noted that the Treasury Board previously considered developing such a framework but did not pursue the initiative. She and Mr. Akrouche were of the view that these changes could only be implemented over the long term.



2.5.2 Work Culture

Mr. Sreter said that although agile and outcomes-based approaches may not be new, they are relatively new to the federal government procurement process. He explained that a greater use of these approaches represents a culture change requiring training within PSPC and across federal departments. He, Mr. Leduc and Ms. Owens mentioned that pilot projects have been conducted in order to determine how to make a greater use of these approaches. Hugh Ralph, Director of Direct Sales, Business Solutions Division at Sharp Electronics of Canada Ltd., told the Committee that, in his view, the agile initiative is well understood at the most senior levels in the federal government, but that this understanding is “not translating down into the organizations that are actually doing the buying.”

Several witnesses believed that the culture of risk aversion within the public sector creates obstacles for the adoption of alternative procurement approaches. Mr. Leduc argues that this culture is at “an all-time high.” Mr. Murphy believes that the nature of federal procurement bids, such as the combination of large contracts with the government’s need for accountability (meaning more detailed requirements for RFPs), reinforces the existing culture of risk aversion. In speaking about his own experiences in government, Mr. Leduc told the Committee that this risk-averse culture also manifests itself in the interpretation of policies and procedures, noting that when he would put a proposal forward “19 out of the 20 people would give me reasons I couldn’t do it, rather than how to do it.” Mr. Leduc and Mr. Murphy both pointed to the existing “command and control” oversight model in the federal government as an important factor that contributes to maintaining the status quo. According to Mr. Leduc, if “you have high levels of risk aversion and high levels of command and control, you [will not] be able to address that cultural issue.”

In order to overcome this culture of risk aversion, Mr. Leduc proposed that a number of pilot projects be conducted as a way to implement new approaches gradually. He said that “[s]even of them might work and three of them might be complete catastrophes, but they’re pilots and they’re small,” which reduces the risk they represent. He added that over time, and with sufficient leadership, the government and the private sector will tend to collaborate and share risk more, establishing a relationship that is closer to a partnership. Mr. Leduc also stressed the need to “start having an honest conversation about how to address this cultural issue of the traditional client-vendor relationship, with the government trying to keep everybody at arm’s length and trying to drive down to the lowest possible price.” Similarly, Mr. Murphy stated that the “way that has to be done is to have some consistent leadership, with very clear outcomes, and then going with very small implementations that are [not] prescriptive.” Lastly, Mr. Leduc spoke

about the possibility of allowing successful pilots to be extended with the same vendor as a way to save time. He stressed that in such cases, the federal government would need to be "transparent and up front about it."

Ms. Tisdale said that the public service does not have incentives to take risks, noting that "there's no downside for making the safest decision [and there] is no upside for experimenting." She added that "we [need] to create the ability and the incentives so that people are actually able to experiment and over time can experiment on bigger scales." She also agreed that in order to be able to reward desired behaviours, performance measures and targets need to be established.

2.6 Committee Observations and Recommendations

There is no "one-size-fits-all" approach to federal procurement. The Committee members believe that further improvements to the procurement process can be made. The potential benefits, including better access to talent and innovative ideas from the private sector, amply justify such efforts.

The Committee observed that the federal government's approach to procurement is inward looking with processes that are not geared toward suppliers and do not take into account the needs of SMEs. The Committee members believe that federal procurement should be easy to navigate and supplier oriented. As well, procurement materials should be written in plain language and English and French versions should be consistent.

The Committee heard from some witnesses that the government should make use of agile and outcomes-based procurement approaches. The Committee members encourage the federal government to explore how these approaches can benefit SMEs. The Committee suggests that the government reduce the number requirements included in procurement contracts and focus on outcomes in order to reduce barriers for SMEs.

The Committee heard from some witnesses that outcomes-based procurement can be successfully implemented within the existing procurement framework if there is clear direction and a gradual implementation. Other necessary changes include a shift in culture and additional staff training. However, the Committee members recognize that the federal government is risk averse and may lack incentive to change.



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Consequently, the Committee recommends that:

Recommendation 1

The Government of Canada establish a centre of expertise on agile and outcomes-based procurement, and incorporate agile principles, including multi-disciplinary procurement project teams and procurement bids with iterative feedback, in order to achieve desired outcomes, and that the centre be located within Public Services and Procurement Canada.

Recommendation 2

The Government of Canada increase the use of outcomes-based procurement approaches, where appropriate.

Recommendation 3

The Government of Canada provide training to procurement staff to increase their capacity on federal procurement and to develop expertise with agile and outcomes-based procurement approaches.

CHAPTER 3: SUPPORTING SMALL AND MEDIUM ENTERPRISES

3.1 Small and Medium Enterprises in Canada

[T]he most important thing you can do in government is to understand small businesses and do business with them in a way that is advantageous to small business. Know what they need to succeed and thrive, and make sure that government policies, programs, rules, and procedures take their unique nature into account.

Iain Christie,
Executive Vice-President,
Aerospace Industries Association of Canada

The most recent federal government statistics show that 99.7% of Canadian businesses are SMEs.¹⁴ The federal government defines a small business as having between one and 99 employees and a medium-sized business as having 100 to 499 employees.¹⁵

"During the 2013 to 2016 period, [SMEs] were involved in purchases of \$5.5 billion, or approximately 35% of the government's procurement contracts" reported Mr. Boivin. Similarly, a study by the Organisation for Economic Co-operation and Development (OECD) reports that 40% of the value of Canadian government procurement goes to SMEs.¹⁶ In terms of metrics, Dr. Barbara Orser, Full Professor and Deloitte Professor in the Management of Growth Enterprises at the University of Ottawa's Telfer School of Management, said this "speaks to the volume of contracting dollars, but it doesn't speak to the number of firms." She added, "If this government is interested in engaging more SMEs as opposed to letting a higher percentage of contract[s] to the same SMEs ... there is merit in looking at both statistics."

At the federal level, Ms. Reza shared that for PSPC, there are approximately 7,900 suppliers with active contracts, 80% of which are Canadian SMEs. Further, she

14 Innovation, Science and Economic Development Canada, Key Small Business Statistics – June 2016, 2016.

15 Ibid.

16 Organisation for Economic Co-operation and Development [OECD], SME and Entrepreneurship Policy in Canada, 25 July 2017.



clarified that 80% of the contract transactions go to SMEs while 35% of the value goes to SMEs. With respect to other departments and agencies, [Mr. Gray](#) noted that “the bulk of the lower dollar-value procurement, a lot of which goes to small businesses, is with the other departments, because they can buy up to \$25,000 in goods [directly].”

SMEs that participate successfully in federal procurement often share a similar profile. According to [Louis-Martin Parent](#), Director of the President's Office of the Canadian Federation of Independent Business (CFIB), “small businesses are integrated into every type of purchase made by the government. They provide goods and services as either prime contractors or subcontractors.” He added that, “[r]egardless of how long they have been selling to government, businesses who do federal procurement are usually more established, older firms that have been able to build themselves up prior to selling to the government.”

A procurement study on the profiles of Canadian SME suppliers to the federal government was recently completed by [Dr. Orser](#) in collaboration with PSPC's business analytics services directory.¹⁷ Dr. Orser concluded “that SME suppliers are, on average, larger and older, and disproportionately concentrated in the knowledge- and technology-based sectors, and in construction.” [Mr. Boivin](#) also referenced this study, which found that the SMEs that are involved in government purchases are focused on growth, which translates into market development and exports.

[Iain Christie](#), Executive Vice-President of the Aerospace Industries Association of Canada, shared that “small business is neither inexperienced nor unsophisticated.” As well, he highlighted that “small businesses are lean and customer focused” and that they “know how to maximize their limited resources.”

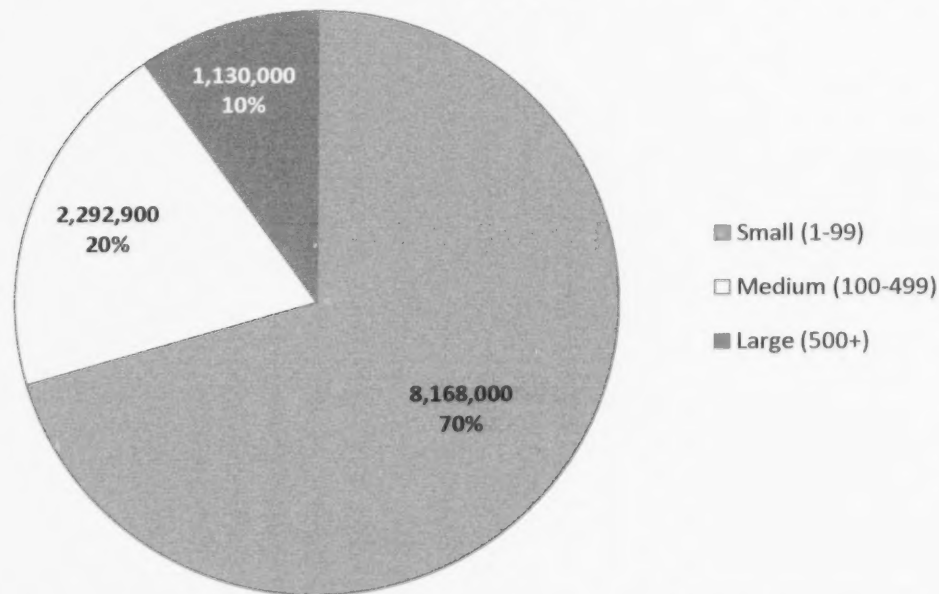
3.2 Economic Impact

Improving government procurement is a priority for the health of Canada's economy, noted [Mr. Kendrick](#). Many witnesses agreed that government procurement creates jobs and opportunities for Canadian businesses to grow. [Mr. Boivin](#) noted that “[a]ccording to the [OECD], the sum total of Canadian government procurement at all levels represents approximately 13.3% of Canada's gross domestic product.” He added that “[p]ublic procurement allows governments and municipal authorities to have access to the private sector's vast production capacity, expertise and innovation.”

17 Diane Liao et al., *Canadian Federal Procurement as a Policy Lever to Support Innovation and SME Growth*, Telfer School of Management, University of Ottawa, Ottawa, 2017.

The participation of SMEs in government procurement is important. According to an OECD report, "SMEs account for 60% of total employment, and Canada performs very well across many measures of small business generation, growth and innovation."¹⁸ As shown in Figure 1, SMEs account for 90% of private employment in Canada. According to [Mr. Parent](#), the joint study by the University of Ottawa and PSPC "plainly states that the government must encourage SME participation in federal procurement because 'the growth of SMEs accounts for a disproportionate share of job creation, innovation, and the accompanying economic prosperity.'" In his view, "[e]nsuring that SMEs can come to the table and sell themselves properly, with the least amount of hurdles, is in the country's best interest." [Mr. Leduc](#) believes that "[t]here is a need to help grow and scale up [Canada's] SMEs, and federal procurement is a vehicle that can be leveraged to support this growth." He later added that, "[g]overnment procurement is an avenue that can enable SMEs to grow, possibly moving from small to medium size and outgrowing the SME category altogether."

Figure 1 – Total Private Employment in Canada by Business Size
(Number of Employees), 2015



Source: Figure prepared using data obtained from Government of Canada, "[Table 2.1-1: Total Private Employment by Province and Establishment Size, 2015](#)," *Key Small Business Statistics – June 2016*.

18 OECD, *SME and Entrepreneurship Policy in Canada*, 25 July 2017.



In its study, the Committee heard from a cross-section of industry. BGIS, a company that provides real estate management services, is one success story. According to [Gordon Hicks](#), Chief Executive Officer of BGIS, the company started as a small business and has grown into a global player. He explained that "[i]t was the Canadian government that gave [the company its] first contract, which allowed ... [it] to then build the scale and competence to grow and compete globally." BGIS, with two large federal real property contracts, now subcontracts to a diverse list of vendors, including SMEs. According to [Mr. Hicks](#), BGIS estimates "that over 90% of [its] supplier base utilized in supporting these [federal] real property contracts is in fact made up of [SMEs] totalling approximately 75% of the annual recurring spend." Another private sector example, Vard Marine, shared that government work was a stepping stone to becoming an export success. [Mr. Kendrick](#) stated, "[70%] of our business is exported, and that's largely on the back of initial contracts that we got from the federal government. It was a seal of quality, a seal of approval, that we were able to take to other countries worldwide."

There are successes within the federal government as well. [Rob Wright](#), Assistant Deputy Minister of Parliamentary Precinct Branch at PSPC, noted that for the parliamentary precinct's "major construction projects, over 90% of the value flows through to [SMEs] through work that is competitively subcontracted by the construction manager." As an example, he cited the West Block project, for which there are approximately 1,000 people from over 40 different companies involved in the work on site. He noted that "[w]hile the work is happening here, locally, on the construction site, its economic footprint is much more national in scale."

Regarding job creation, [Dr. Allan Riding](#), Full Professor and Deloitte Professor in the Management of Growth Enterprises at the University of Ottawa's Telfer School of Management, reported that "small firms create a disproportionate share of jobs in Canada and they are increasingly being involved in innovation and exporting." He acknowledged that it is less efficient and "more burdensome for government to let contracts to a whole bunch of small firms instead of one big firm." However, he believes that the lack of efficiency is "more than made up for by the growth that's generated by the small firms and the impetus to growth that the contracting provides." Further, [Dr. Riding](#) recognized that by adding supplier diversity requirements, "there would be economic losses in terms of constraining people." Still, he argued that "the idea is that those losses will get offset by the job creation and the innovation that would be endemic to the people who then take the contracts." [Mr. Boivin](#) echoed the views of Dr. Riding, stating, "I think it is important to consider public procurement as a tangible form of contribution to economic development. To that end, it could be advantageous to create alliances between the private sector and the Government of Canada in order to further the development and the export of Canadian technology and know-how."

Along the same lines, [Dr. Chideock](#) recognized that “there is a tension in the U.K. government between getting efficiency gains by aggregating need for common goods and services, and disaggregating to create smaller contracts and opportunities that might be more accessible to small businesses.” The U.K. Public Administration and Constitutional Affairs Committee recently launched an inquiry on sourcing public services, with a focus on lessons learned from the collapse of Carillion. According to a briefing paper by the U.K. House of Commons Library, “[t]he inquiry looks at how government and the public sector make decisions about how to source the delivery of public services, including the risks of concentrating a large number of contracts with a small group of large companies.”¹⁹

The goal of the U.S. Small Business Administration is not to create small businesses, but rather to create small business employment, a distinction highlighted by [Eugene Cornelius](#), Deputy Associate Administrator of the Office of International Trade for the U.S. Small Business Administration. For example, the U.S. Small Business Administration has a procurement program called HUBZones to promote economic development for historically underutilized business zones. [Mr. Cornelius](#) explained that “it’s not only the minority communities that are underserved or experience economic downturn, but it’s ... rural areas as well.” He noted that when rural areas drop below the poverty line, historically they become underutilized areas as well. [He](#) believes that “people hire people locally, people hire people who look and act and walk like them, and communities hire people who are from their own communities.” As a result, he noted that they try to incentivize small businesses to move into underutilized business areas, “and to not only put their headquarters in that area, but to hire one-third of their workforce from that area.” As an incentive, he explained, they allow for a 10% price differentiation when it comes to bidding for federal procurement or federally funded procurement. According to [Mr. Cornelius](#), this is a very active program, and they meet their procurement goal of 3% of all federal procurement value every year.

3.3 Participating in Federal Procurement

Some SMEs simply do not consider the federal government a potential client. [Dr. Orser](#) pointed out that that “[t]he percentage of businesses that do not think of the federal government as a contracting opportunity is far more significant than is that of those that are concerned about the actual procurement process.” [Dr. Orser’s](#) study on SME

19 Frederico Mor et al., [The collapse of Carillion](#), Briefing Paper Number 8206, United Kingdom House of Commons Library, 14 March 2018.



participation in federal procurement²⁰ found that “the majority of Canadian SMEs, 82%, simply did not perceive the federal government to be a potential client.” For some SMEs, the perceived effort is not worth it.

Several witnesses raised this issue. For example, [Mr. Boivin](#) explained that “[t]here is a perception of inaccessibility in that small businesses feel that they will not win the bid, and so they feel there is no point trying.” As well, [he](#) noted “that not all businesses are necessarily interested in doing business with the government, depending on their sector.”

[Mr. Parent](#) noted that, “younger firms are seldom considering federal procurement as a prime target, regardless of promised contract size.” He explained that “[i]f the process involved in just getting a foot in the door seems too complicated, SMEs will look for opportunities elsewhere.” [Mr. Leduc](#) made a similar point, noting that some SMEs “choose not to take part in any federal procurement due to the complexity and the investments required.” In his view, “[t]his limits the Canadian government’s capacity to acquire the best possible or most innovative solution and leverage its procurement to support its socio-economic goals.”

According to her recent study on SME participation in federal procurement, [Dr. Orser](#) noted that many SMEs attributed a lack of awareness of contracting opportunities as their reason for not selling to the federal government. As well, she found that for “supplier SMEs, those firms contracting with the federal government, the primary obstacles were again associated with complexity of contracting, 43%; difficulties finding contracting opportunities, 26%; and the high cost of contracting, 27%.” Other obstacles included long delays in receiving payment and difficulty meeting contracting requirements.

As well, representatives of Canon Canada Inc. and Sharp Electronics of Canada Ltd. expressed concern that the centralization of the federal government’s purchases would limit the number of suppliers for some goods, thus creating oligopolies. According to them, such oligopolies will increase prices, reduce the quality of service and have a negative impact on SMEs, Indigenous and women-owned businesses that rely on federal contracts. [Mr. Ralph](#) from Sharp Electronics of Canada Ltd. indicated that Shared Services Canada (SSC) “is in the middle of [a] plan to consolidate how the federal government procures printers and copiers,” through its Workplace Technology Devices Printer Procurement program. [Dave Montuoro](#), National Sales Manager of Federal Government

20 Diane Liao et al., *Canadian Federal Procurement as a Policy Lever to Support Innovation and SME Growth*, Telfer School of Management, University of Ottawa, Ottawa, 2017. According to the paper, the findings of the study are based on public data tables drawn from the 2014 *Survey of Financing and Growth of Small and Medium Enterprises*, conducted by Innovation, Science and Economic Development Canada and Statistics Canada. The tables reflect responses from 10,397 owners of small and medium enterprises that employed between 1 and 499 employees and that generated annual gross revenue of \$30,000 or more in 2014.

Accounts at Canon Canada Inc., added that this will have a negative impact on price and service levels. Mr. Ralph also noted that SSC's plan "will limit the government's access to new and innovative technologies."

Mr. Boivin recommended that the government avoid the excessive centralization of purchases, as it favours large businesses in large cities. In a brief sent to the Committee, Canon Canada Inc. and Sharp Electronics of Canada Ltd. requested the federal government "cancel Shared Services Canada's Workplace Technology Devices Printer Procurement" and "direct Shared Services Canada in their future procurements to achieve efficiency and cost-savings without reducing competition and hurting small and medium-sized businesses."

3.4 Simplifying Procurement

Many SMEs find the contracting process associated with federal procurement to be complex and this complexity creates obstacles in engaging with the federal government. According to its 2016-2017 Annual Report, the OPO reported that federal procurement needs to be simplified and be clear and comprehensive. The report notes that simplified procurement would "ensure suppliers bidding on federal opportunities have a clear understanding of what is expected of them, both in terms of submitting a bid and of the work that will be required once the contract is awarded." Mr. Jeglic, the new Procurement Ombudsman, told the Committee that:

Procurement is by its very nature quite complex. Suppliers must be clearly told what the buyer is looking for, how their proposals will be evaluated, and how the winning bid will be selected. This can be painstakingly detailed but often necessary to ensure fairness, openness, and transparency. I am a strong believer that federal organizations need to take every available opportunity to simplify procurement.

Recognizing that the federal procurement process is very complex, Ms. Owens highlighted that the Treasury Board Contracting Policy was created in the late 1980s, and although the policy has had periodic updates and additions, it has not been renewed in several decades. According to her, the policy has developed into a "complex web of over 300 requirements, and some are very prescriptive, process-oriented rules." She indicated that TBS is reviewing the Contracting Policy, the goal is to have the policy better reflect a modern approach to comptrollership. TBS consulted with departments and agencies to develop a policy that "enables more flexible and innovative procurement strategies, and streamlines policy requirements." She informed the Committee that TBS reviewed the policy and significantly reduced the number of pages. Ms. Reza said that PSPC works in collaboration with TBS and a host of departments, as well as the national Supplier Advisory Committee and individual suppliers, "to explore ways to improve and modernize [the federal government's]



approaches to delivering procurement.” Ms. Owens explained that there were no specific provisions for SMEs “beyond encouraging fairness and openness for all participants in the procurement process”

Some terms and conditions included in federal contracts are based on the government contract regulations set by TBS that are deemed to apply to all contracts, said Ms. Owens. She added that, aside from those, TBS does not set the terms and conditions of contracts. Ms. Reza noted that some terms and conditions in procurement contracts “are from years ago and need to be updated and more aligned with a modern comptrollership policy.”

Paula Sheppard, Chief Executive Officer of the Newfoundland and Labrador Organization of Women Entrepreneurs (NLOWE), believes that “[c]omplex bidding and contracting procedures, coupled with [a] lack of knowledge about the tendering process, are also a major barrier for SMEs.” Dr. Orser added that according to her study on SME participation, a frequently cited reason for not selling to the federal government was the perception that the application process was too complicated or time-consuming. Mr. Parent highlighted that a survey of CFIB members found that the “three aspects [of federal procurement] that received the lowest ratings are simplicity of forms, clarity of steps necessary to sell to the federal government, and the notification of and access to contract opportunities.” He added that “[e]ach of these has nearly 50% of members rating them as poor, and they are all red tape-related.”

According to Scott MacGregor, President of SageTea Software and a Build in Canada Innovation Program participant, the complexity of RFPs can be a barrier to innovators. Mr. MacGregor commented that “[p]eople who are innovators don't necessarily understand the bureaucratic model of responding to an RFP. If the government can come up with a way that will actually help people get through this, that would be a huge benefit to a lot of the innovators.”

Regarding requirements, Mr. Akrouche considers federal procurement complex and believes “it's geared towards the medium or large enterprises.” Mr. Leduc made a similar point, noting that the federal government, as the largest contractor of professional services and consultants, is constantly asking for 15 or 20 years' experience. In his view, there aren't many “young IT consultants moving into the government because they're constantly asking for 15 or 20 years of experience.” As a result, the government isn't getting what it wants, which is the best possible talent for this type of work. Similarly, Mr. Card noted that many federal contacts require prior federal government experience. John Gamble, President and Chief Executive Officer of the Association of Consulting Engineering Companies (ACEC), explained that while past experience is a good indicator,

it should be relative and germane, and that it shouldn't preclude an opportunity or program to facilitate new entrants.

Further, in their [brief](#) submitted to the Committee, Thinking Big recommended that the federal government ensure that evaluation criteria, including threshold levels and parameters, do not unnecessarily restrict SMEs from having an opportunity to bid as the prime contractor on federal contracts. It also encouraged the federal government to conduct a rigorous review of professional services and related requirements to open the location of the work by the contractor to any geographic region within Canada, as opposed to restricting contracts to the National Capital Region.

As another example, [Mr. Kendrick](#) noted that Vard Marine was "recently asked to bid on a requirement that had already gone out to tender twice and failed twice because the qualifications requirements that were being asked for just didn't exist in the Canadian industry." [Mr. Christie](#) shared that when aerospace firms "complain of red tape, it's that they don't know what they need to do to be successful, and new requirements seem to appear after they get involved in the [procurement] process." He added that, "[f]rankly, some of them seem to be arbitrary and coded to the whim of the procurement official, rather than running according to a process that is consistent."

Regarding the timing of when qualifications or insurance is required, [Dr. Chideock](#) shared that in the U.K., "[i]n the past [they]'ve asked for qualifications or membership of a particular group or insurance at an earlier stage, and that has been a real barrier to SMEs in participating in different markets." She continued that they "now tend to ask for them upfront at the point at which the service starts being delivered or just after."

The size of federal contracts is sometimes a barrier for SMEs. According to [Mary Anderson](#), President of the Women Business Enterprises Canada Council (WBE Canada), "the federal government tailors some of the procurements to larger organizations that have already had experience, security clearance, and so on." [Mr. Akrouche](#) explained that it may be difficult for SMEs to participate in standing offers and supply arrangements because of the requirements related to business size or the length of time in business. For example, "[s]ometimes there are qualifications, such as being \$10 million in size." He believes "[t]hese are artificial barriers that prevent small and medium enterprises from actually bidding on government business."

In contrast, [Dr. Orser](#)'s study on SME participation found that "only 14% of supplier SMEs cited difficulties with respect to providing all services required in the contract." For the most part, suppliers have the capacity or expertise necessary to provide services to the federal government.



A [brief](#) submitted by the BC Tech Association indicated that government procurement practices are geared to larger vendors. In particular, “[g]overnment procurements typically demand a level of sophistication on the part of vendors and suppliers in order to participate in the procurement process....This challenge is further exacerbated by the reality that procurements tend to favour larger awards for reasons of economies of scale and scope, which further disadvantages small and mid-sized companies from participating in the bid opportunity.” As well, “[i]n many cases, it is easier to renew and/or extend existing vendor arrangements than it is to engage in a competitive process. ... Incumbent vendors also have a distinct advantage on new opportunities, given their detailed understanding of the needs/requirements and therefore are better positioned to influence the specifications that favour their position.” Thus, in their brief, the BC Tech Association recommends that the government set a defined limit on the extent to which existing agreements can be modified or expanded before requiring a new competitive bid process. As well, in its [brief](#), Thinking Big recommended that the federal government reconsider the necessity of bundling and/or establish flexibility within RFPs, for smaller bundles that can be awarded to SMEs. For example, instead of continuing a winner take all bundled approach, award contracts based on geographic regions or discrete business segments.

According to [Ms. Owens](#), some procurement contracts are very opaque and “there is a real legal industry around contracts.” [Dr. Orser](#) commented that “[t]he current system is based on compliance, with heavy legalese. [Federal] procurement officers are bound to meet the terms of that obligation.” In her view, “there is opportunity to look at innovation within that system, and ... make it less cumbersome by making the language and the process less legal.” She noted, however, that this would first have to be beta-tested within a small envelope.

Some witnesses reported anecdotally that part of the issue with excessive terms and conditions is the recycling of procurement documents. [Mr. Leduc](#) suggested that when drafting new procurement documents, a procurement officer will often look to a similar procurement contract and copy all of the terms and conditions. However, those requirements may not necessarily fit the new procurement requirements. [Mr. French](#), who previously worked within the government at both the federal and the provincial level, suggested that “[p]art of that copy and paste is just the speed of getting it done ... if you know who you want and they have the experience and you just want to go ahead and do something, ... you’re still required to go through a certain process.” In some situations, [he](#) noted, “it has the appearance of an open general bid process, but ... 90% of the time it’s already landed with someone. There you’ve gone through this epic process and ended up with the winning bid that people could have predicted earlier. You have all the worst of that happening.”

Given the complexity, several witnesses suggested that the federal procurement process should be simplified to increase the participation of SMEs. According to [Mr. Parent](#), "government can make it ... easier for SMEs to, one, identify opportunities that are within their area of expertise and have a realistic project scope, and two, promote themselves and bid on those opportunities in a straightforward manner." [Ms. Sheppard](#) encouraged the government to "[s]implify tendering and contract procedures." Similarly, [Ms. Anderson](#) reported that women-owned businesses would like more transparency in the contracts that are awarded, streamlined bidding systems and simplified procurement requirements. [Mr. Boivin](#) suggested that processes must be simplified and "that over the past years, regulatory requirements have been added that have not necessarily been harmonized." [Yvon Boudreau](#), Consultant with the Fédération des chambres de commerce du Québec, underscored however, "what a complex undertaking it is for a government to streamline or simplify a process." According to him, simplification and streamlining have their limits. For example, he noted that "when you add a requirement such as assessing the economic spinoff to a community, more information is necessary to warrant applying those requirements." [Mr. Christie](#) shared that in developing policies and processes, the federal government should be aware of SME needs and reduce the complexity of contracts and contracting processes.

Some witnesses, including [Mr. Kendrick](#), recommended that the federal government have page-count limits on proposals to reduce the burden on industry. [He](#) noted that this is done in the U.S., Australia and South Africa. In [his](#) view, "even quite complex concepts can be reduced to their essence in a fairly small amount of material" and procurement should aim to do this. The obstacle, [he](#) noted, is that many have had the experience of having a proposal disqualified for not repeating a table that was in an RFP. [Mr. Leduc](#) shared a similar view, noting that reducing the length of RFPs is about simplification.

A simplified procurement process for SMEs was suggested by several witnesses. [Mr. Akrouche](#) recommended that the government relax regulations for SMEs that want to do business with the government in a direct way, outside the use of supply arrangements. Regarding a threshold for simplified procurements, [Mr. Leduc](#) indicated that most SME procurements for ITAC members fall below \$50,000. [Max Skudra](#), Director of Research and Government Relations at Canadian Council for Aboriginal Business (CCAB), suggested that a \$100,000 threshold for opening up procurement to small businesses directly would be beneficial. In its [brief](#) submitted to the Committee, Thinking Big recommended that the federal government increase the sole source threshold for contracting from \$25,000 to \$50,000.

Addressing the size of procurements, [Mr. Murphy](#), argued that "[a] one-to-10-person company doesn't want to bid on a \$2-million opportunity—\$100,000 is fine. Something



under the NAFTA limit would be great for them." In his view, "SMEs are getting a pretty good share of the pie," and if government wants to engage with the micro-segment, the one-to-10 employee segment, then it could have ultralight procurements. He suggested that the government look to existing procurement tools and "renovate" them to achieve this goal.

A simplified procurement process for certain purchases is one approach used by the U.S. Small Business Administration. According to Mr. Cornelius, in the U.S., all procurement actions not exceeding US\$150,000 go through a simplified acquisition process. He explained that this is one of their basic tools to ensure that small businesses get government contracts. As well, he noted that, "[i]t's an attempt to open up the contract and to make it simple for those people who don't have prior experience dealing with the government to compete and bid for contracts." This, he added, helps to ensure that contracts are not just being favourably given to certain people. He shared that above the simplified acquisition threshold, the federal acquisition regulation rules come into play, which are very stringent and detailed.

The U.K. central government has introduced a number of reforms to simplify public procurement and "level the playing field" for businesses of all sizes. According to Dr. Chideock, the U.K. has banned pre-qualification questionnaires for procurements falling below the Official Journal of the European Union (OJEU) threshold²¹, and above that threshold they've set up a standardized questionnaire "so that small businesses are engaging with something they recognize from previous experiences."

Similar to the activities of the Procurement Ombudsman, the U.K. has a Mystery Shopper service. Dr. Chideock noted that suppliers, through the U.K.'s Mystery Shopper service, can anonymously report problems about a procurement process or contract. This reporting approach has been successful at identifying barriers for SMEs. She added that in the U.K. government public bodies are statutorily required to respond to the concerns raised through the Mystery Shopper service. She noted that many of the issues identified relate to prompt payment, the time period to apply for procurement opportunities, and "whether financial thresholds or requirements for insurance or requirements for a particular kind of accreditation are reasonable and fair."

In terms of other ways to simplify the process, Mr. Parent told the Committee that "[t]he government recently conducted a pilot for submitting bids via Canada Post's e-post service, which is essentially another way of submitting bids by email." According to him, "[t]his [option] is very welcome and has already generated positive results for suppliers

21 The Official Journal of the European Union (OJEU) threshold for central government for supplies and service contracts is €144,000.

and government.” He recommended that the federal government implement a robust e-procurement platform that lays out a clear process to build on opportunities, written in plain English or French. He believes that this would be key to reducing the hurdles for SMEs to successfully bid on contracts. In its [brief](#) submitted to the Committee, Thinking Big made the same recommendations, that the government implement a digital online bidding process, which is streamlined and that incorporates RFPs and contracts that use plain language.

Similar to the concept of [buyandsell.gc.ca](#), the U.K. government’s “Contracts Finder” is a publishing portal for public sector procurement opportunities. The [Contracts Finder](#) is managed by the CCS “with the aim of increasing procurement transparency and providing more opportunities for SMEs to supply goods and services to the public sector.” Further, through Contracts Finder, “[d]ata and documents are disclosed at all stages of the contracting process. This allows deeper analysis of contracting data by a wide range of users.” According to [Dr. Chideock](#), for central government, any contract over £10,000 should be found on Contract Finder.

3.5 Staff Capacity

Regarding the government’s procurement human resources capacity, the OPO in its [2016–2017 Annual Report](#) found that “[f]ederal organizations do not have sufficient procurement staff or have staff that do not have the experience or knowledge needed to tackle the volume and complexity of federal procurement in a way that is fair, open and transparent.” According to the report, the lack of staffing capacity causes “delays during various stages of the procurement process, and concerns of an increasing reliance on non-specialists to undertake some procurements given the limited number of procurement specialists.” The report also highlighted that the situation might worsen as there are a large number of federal procurement staff eligible to retire in the next five years. [Mr. Ieraci](#) indicated that there is a limited capacity, especially in terms of procurement officers at the medium to senior levels of the federal government. As well, in its report, the OPO suggested that the federal government develop a coordinated approach to recruitment, including the development of procurement specialists across federal organizations to address this issue.

[Ms. Reza](#) explained that there are approximately 1,300 procurement specialists working for PSPC out of some 3,100 procurement specialists for the federal government as a whole. She added that PSPC employees receive training on the code of conduct for procurement activities in addition to training that reinforces the desired and expected behaviours of procurement specialists. [Ms. Owens](#) shared that there are 12 departments



involved in a collective staffing process to recruit procurement officials, including from outside the federal public service.

One witness, Mr. Kendrick told the Committee that “[t]he government's procurement expertise is spread very thin.” This, he stated, has been acknowledged by a number of government officials, and this is confirmed by his own experiences. He remarked that “[i]f you have people in procurement who really are not sure of what they are doing, then they tend to default to ticks and boxes. ... It doesn't encourage innovation.” In his opinion, there are “a lot of very junior people who don't understand how the industry works, trying to make decisions without having the background. We see the consequences of that in some of the rather poor procurement documentation.” He expanded that on the government side, “there is not adequate quality assurance of the documentation that goes out” and that “[s]ome of it is just really poor.” In contrast, he emphasized that on the industry side, “responding to requests for proposal is the most important thing we do. If we don't win work, we're out of business, so it's handled by very senior, very experienced people in our organizations.”

In its brief, the BC Tech Association suggested supporting procurement officials with enhanced training. Specifically, it recommended “further investment in training and professional development in the areas of value proposition assessments, tech sector engagement and cross-government opportunities.”

3.6 Cost of Contracting and Length of the Process

Several witnesses suggested that the cost of contracting and the length of the process involved can be inhibitors for SMEs. Mr. Gamble stated, “[i]f we had a criticism of government procurement, it would be that it's such an expensive process. What proponents are aggravated by is that if you do [a] 500 [page-document], about 450 of those pages are the same from every proponent, but it's very expensive to do.” According to Ms. Anderson, “[i]t costs a lot in time and money to respond to federal government RFPs, so one has to think about it before engaging in that RFP preparation exercise.” Ms. Sheppard noted that “[o]ftentimes small businesses don't have the capacity or knowledge base to spend the time completing the forms required to bid.”

In Mr. Parent's view “[t]he timelines [in the government] are much more drawn out than in the private sector.” Mr. Leduc commented that “if a procurement is going to go on an 18-month or 24-month cycle or almost three-year cycle, only the very largest vendors can invest.” He argued that “[t]here isn't an SME in the country that can afford to spend \$600,000 or \$700,000 in resources to take part in one of these complex procurement processes that take over a year.” Sam Damm, President of FoxWise Technologies Inc.,

also spoke about the length of the process and said that it is very expensive and time-consuming for businesses to respond to the federal government's massive RFPs.

SMEs often have limited resources. Mr. Akrouche argued that "[e]ven medium and large enterprises hire outside consultants to help them navigate and decipher [the federal procurement process]." However, he noted that "[SMEs] don't have this ability. They don't have the money or resources." According to Dr. Riding, "a really high proportion of small firms are really quite small, fewer than five employees. To be able to repeatedly qualify for procurement tenders and even to qualify for a standing offer is problematic. It consumes a lot of the businesses' resources that may be better deployed elsewhere." Mr. Christie agreed, saying that "small businesses ... do not have a lot of specialized staff."

Mr. Gray shared that there are some ways in which the government attempts to improve the speed of procurement. He noted that pre-facilitated contracts, which are standing offers and supply arrangements, allow departments to immediately access suppliers. In his view, "[i]t really expedites the whole process. Also, these are generally competitive processes, so suppliers get the opportunity to bid. They offer their services and they can get contracts awarded. For many small businesses, standing offers and supply arrangements are key and important parts of their business."

However, in its 2016–2017 Annual Report the OPO reported that there is "no guarantee of revenue for suppliers even when they have qualified on standing offers and suppliers must qualify on multiple tools across multiple federal organizations to deliver essentially the same goods and services." John Derouard, President of K-Sports Marine Inc. and a member of Red Sky Metis Independent Nation, expressed his frustration with the fact his business was awarded many standing offers that were never used.

The OPO report explains that standing offers are a high risk to suppliers due to the fact that suppliers invest time and energy to submit proposals and qualify, while there is no certainty they will win a contract. It added that except for mandatory commodities, there is no obligation for the federal government to use the established standing offers and even if federal organizations use standing offers, there is no guarantee a supplier will win a contract. Nonetheless, suppliers have to be ready to provide the goods and services within very short timeframes if they want the contract. Mr. Damm shared that businesses invest a lot of resources to respond to "massive" RFPs. He added that sometimes a business wins a supply arrangement through a standing offer for set-asides, yet does not carry out any work.

In its report, the OPO suggested creating a government-wide centralized repository of all standing offers issued by federal organizations. This is expected to help reduce the



duplication of standing offers across departments and agencies. It should also help in the evaluation of standing offers to better understand if the purported benefits are materializing.

According to Ms. Sheppard, "[o]ften there is a disproportionate bidding cost based on the size of the contract." For SMEs, the "[c]osts of supplying a performance bond or guarantee or of having a higher level of insurance than currently held cut directly into the bottom line of these businesses." She suggested that "[o]ftentimes these requirements can be adjusted, as they are based on previous contracts and tenders and not the current one."

The U.S. government tries to support small businesses participating in large procurements. According to Mr. Cornelius, "[s]mall businesses don't necessarily have the resources once they go after these contracts, particularly contracts of [US]\$4 million or more. They don't necessarily have the working capital necessary to have the inventory or to have the necessary available labour force up and running in order to meet their 30-day to 90-day obligations of payout, or whatever." To assist, he noted that they can facilitate working capital and lines of credit, and assistance with inventory purchase through their capital access program. He explained that the U.S. Small Business Administration doesn't make the loans but has partnered with over 7,500 U.S. banks to "give them a guarantee if they make a loan to the small business community." According to Mr. Cornelius, the U.S. Small Business Administration can guarantee loans up to US\$5 million and will put a guarantee of 75% to 80% on that loan. He explained that "leaves some skin in the game for the banks to do very good underwriting because they are responsible for 20% to 25% of that loan, and they have to reserve losses accordingly." James Parker, Acting Director of the State Trade Expansion Program of the Office of International Trade at the U.S. Small Business Administration, confirmed that their default rate on these loans is about 8%.

3.7 Timeliness of Payments to Suppliers

According to several witnesses, the timing of payments by the federal government can also present a challenge for SMEs. Mr. Christie commented that often "small business is ... cash-flow focused and not balance-sheet focused." He explained "that in order for small businesses to be able to make investments in their future growth, they have to take care of their short-term risks first." Ms. Sheppard noted that "[g]overnment often has lengthy payment intervals after the contract is awarded." She added that, "[m]ost small businesses struggle with cash flow. They are often unable to wait extended periods of time to be paid." Mr. Parent explained that "[i]f a small firm gets paid two or even three months after they have delivered a product or service, it will almost certainly sour them on doing repeat business with the government. They will also be likely to tell their fellow business owners

about their experience." Several witnesses, including [Mr. Parent](#), [Mr. Christie](#) and [Ms. Sheppard](#), as well as a [brief](#) submitted by Thinking Big recommended that the federal government focus on reducing payment times as much as possible. [Mr. Christie](#) emphasized that this should be a top priority of every procurement officer in the federal government. [Ms. Sheppard](#) suggested that "adjusting payment schedules will make the contracts more accessible." In her view, ensuring that contractors get paid on a timely basis will greatly increase the chances of engaging SMEs.

[Ms. Owens](#) shared that the federal government recently "made a change to the Financial Management Policy that ensures the government can pay its invoices in 30 days or less." She explained that the previous policy requirement was to wait 30 days, but now departments can pay in advance. According to [Ms. Reza](#), "80% of contracts under a million dollars are with SMEs, so getting them paid quickly is really key." She added that they are "working internally to look at readjusting the timelines, now that the 30 days have been accelerated, and to see how [they] can accelerate [their] processes and invoice payments to make payment faster."

In comparison, [Mr. Cornelius](#) shared that in the U.S. they have a strict order to pay small businesses within 15 days. As another example, [Dr. Chideock](#) shared that the U.K. central government is targeting to pay 80% of invoices within 5 days and 100% within 30 days. She added that this is required by law. The U.K. central government is also advising its key suppliers that they have to pay their supply chain within 30 days. Further, the U.K. government is consulting with businesses on whether to including timing of payment as a consideration in awarding contracts.

According to PSPC, "[t]he federal government pays 96% of their main contractors on time. However, some subcontractors who work for these main contractors are not paid on time, or within the required timelines." As a result, the federal government is currently seeking recommendations on federal prompt payment legislation for contractors and sub-contractors in the construction industry.²²

3.8 Risk Sharing

In procurement, government seeks to minimize its risks. However, [Mr. Leduc](#) believes that the government is attempting to transfer all potential legal risks to the private sector by requiring unlimited liability. For example, he noted that in the case of a \$75,000 contract, the requirement to have unlimited liability would put an entire SME's company "up for grabs" if there were any issues with the procurement. [He](#) argued that

22 PSPC, "Government seeking recommendations on federal prompt payment legislation," News release, 30 January 2018.



"the attempts of the government to mitigate legal and security risks in contracting discourages many SMEs from submitting bids." He added that it limits the number of bidders who are willing to take part in a given procurement.

Mr. Murphy noted that "[i]n the private sector, risk is dealt with through an actuary, and they put a dollar amount on it." However, in government risk is very challenging to quantify. According to Mr. Parent, "there's a great fear on the government's part of protecting the [C]rown." He added that "oftentimes procurement officials are fearful of doing something out of bounds." According to Mr. Kendrick, what "government really needs to work on is figuring out where risk should reside. Not all risk should go to the contractor. Some should stay with the government." In the U.S., for example, Mr. Cornelius noted that liability depends on what particular product or service the government is buying. According to Mr. Leduc, "ITAC members are seeking reasonable risk-sharing as a priority, rather than off-loading and transferring all risk to the private sector via unlimited liabilities, over-prescribed terms and conditions, and strict security requirements." For example, he recommended that liability be limited to the value of the contract. In its brief, Thinking Big encouraged the government to simplify the terms and conditions included in contracts and to align them more with commercial practices.

As well, Mr. Leduc suggested that "there's a need for risk officers in government, a need to have someone evaluate how the inclusion of strict government terms and prescribed requirements are impacting the number of bidders on procurement." Further, he noted that too many requirements and prescriptive terms and conditions, such as unlimited liability, will diminish the number of bidders even when there are many bidders in the marketplace. This may result in significantly fewer bidders and run counter to the federal government's goal of attracting a fair number of bidders for a particular procurement bid. He argued that the role of a chief risk officer is to make overall assessments since government often works in silos, with legal, security, and IT each considering their own perspectives.

3.9 Balancing Price and Quality

Another concern raised by some witnesses is that the federal government favours the lowest price in choosing a supplier. However, Ms. Owens pointed out that the expression "best value" in the government's Contracting Policy is defined as "the combination of price, technical merit, and quality, or, as appropriate, the optimal balance of overall benefits to the [C]rown and the Canadian people." She emphasized that "best value" does not necessarily mean the lowest price.

A focus on price doesn't necessarily deliver the best value or the overall lowest price over the life of the procurement. Ms. Tisdale commented that in government procurement, "there's this focus on the lowest price." She argued that government should focus on value and outcomes, as "[t]he lowest price often becomes the highest price over the life of a contract or a relationship." According to Mr. Gamble "when the lowest price is assumed to be the best price, proponents will minimally interpret the scope of work in order to be competitive. That means they are not looking at alternatives, they are not looking at the value-adds." He continued, saying that the federal government "will actually penalize you if you propose innovation. It will actually penalize you if you anticipate difficulties that might arise in subsequent construction phases or even in the operations. Consequently, significant life-cycle savings are sacrificed in favour of short-term savings." He suggested that "the lowest price is not the best price. The right price is the best price." In his opinion, public procurement sometimes confuses value with low price. He argued that a good procurement system "rewards proposals that add value and that propose innovation" and "considers the life cycle of the project and focuses on the best value rather than the lowest price."

According to Mr. Parent, "SMEs view their greatest strengths [to be] their company's knowledge, reputation, and experience.... Cost-effectiveness is viewed by many as a strength but not as much as the first three are." He argued that the focus on price "is by default putting most SMEs at a disadvantage. It is truly a case of price versus quality." Ms. Anderson shared a similar view, saying that the women-owned businesses she talked to believe that "[t]he government tends to look at price and not so much at value." Further, according to Mr. Kendrick, "[w]hat's even worse than low bid is low rate, and that often appears in [federal government] supply arrangements." He commented that "[i]f the government is really interested in finding the engineer who will charge the lowest hourly rate, then shame on the government: they are probably not the engineers you want."

In contrast, Mr. Boudreau shared that "[m]edium-sized businesses are quite satisfied with the Canadian government's call for tenders and contract awarding system, especially because for the past few years a particular focus has been placed on the quality of the firm and its experience, innovation and skills." He added that, "[i]n certain contracts for example, 90% of the points are awarded for these more qualitative aspects, and price only counts for 10%." Further, the brief submitted by the BC Tech Association indicated that "recent changes to defense procurement has led to policies that account for economic benefits to Canada in a more holistic way. Expanding these policies to more procurement would help to further differentiate purely international vendors from those who have a substantial presence in Canada." Accordingly, in their brief, the BC Tech Association recommends that the federal government introduce value propositions



across all technology procurements. According to the brief, "[a] value-proposition based procurement can be designed in compliance with existing trade agreements. The weighting framework of a value proposition score relative to other attributes such as cost and performance can also be flexible and be determined on a procurement-by-procurement basis."

Mr. Parent recommended that the federal government implement strategies to deter procurement officials from focusing only or primarily on price. Mr. Boivin agreed that the government should develop strategic procurement by not considering price alone and not focusing only on the lowest bidder. Along the same lines, in its brief Thinking Big recommended that the government "[e]nsure that the weighting of the price is set to support obtaining high quality resources and solutions."

A supplier performance rating system could be one way to focus on quality in federal procurement practices. According to Dr. Orser, "[w]ith the federal government, the contracts are always up for new renewal. You lose the asset of the relationship, the social capital, that is built between a supplier and a client." Mr. Leduc argued that the problem with the current system is that "there is no vendor performance evaluation, so the same company that has potentially milked the government six or seven times gets a fair chance at bidding for the next one. If he has the lowest price, he wins." Mr. Christie noted that while it is currently prohibited, the federal government should develop a supplier performance rating system "that rewards good performance with the opportunity to do more business with the government." He argued that this isn't about weeding out bad vendors, but instead it provides "a means of encouraging better vendor performance" and ultimately rewarding that performance. He later added that "the performance management system becomes an incentive not only for the companies but for the project managers inside government to improve their performance. You end up with procurement officers who want to have vendors that are scoring the highest grades. It becomes a mark of pride to them to have good suppliers. They proactively work with suppliers to improve their grades before they get rated."

Several witnesses, including Mr. Boudreau, Mr. Parent and Mr. Kendrick, shared the same view that past performance should be evaluated through a rating system. Mr. Boudreau suggested that "the criteria need[s] to be known and transparent, and the information should serve a purpose afterwards." According to Mr. Cornelius, the U.S. government evaluates past performance of suppliers, which also includes a mediation mechanism.

Dr. Orser noted that a supplier performance rating system "makes good business sense. It rewards your loyal supplier base, with the provision that there's the opportunity for

fresh suppliers into the pipeline and the opportunity to turn over suppliers to enhance competitiveness and the quality of the deliverables." She suggested that if a scorecard approach were to be used, it could include some experiential evidence and some diversity evidence that could be weighted, but that overall, there should be a component that recognizes new suppliers with little experience. Dr. Orser suggested that new suppliers could be marked as "VIP" and federal procurement officers could work with them in a proactive way to usher their contracts through the procurement process. As well, Mr. Kendrick suggested that the government could grade past performance by categories but give new entrants an automatic passing grade and evaluate them on the merits of the other elements of their proposal.

Using qualifications-based selection could be another way of increasing the quality of federal procurement. Mr. Gamble told the Committee that ACEC recommended that government use a qualification-based selection method for engineering and architectural-related services. He explained that although it's a small percentage of an overall project, "that 1% that you invest in engineering and architecture has a cascading effect throughout the design life of [the] entire project. It's at this rather modest investment at the front that you have the opportunity to innovate, to look at new materials, new methods, and different ways of doing things." He added that the federal government will end up living with those engineering decisions for decades, and for that reason, they should be viewed as an investment, not an expense.

In a qualifications-based selection process, the federal government would require the qualifications of consultants in order to evaluate and rank the proponents. Following this process, the federal government would request proposals from the front-runners, explained Mr. Gamble. In most cases, the government would interview those front-runners and select the highest-ranked consultant. Procurement officers would meet with the highest-ranked consultant to ensure a mutual understanding of the project's scope and outcomes. At this point, a contract could be awarded.

According to Mr. Gamble, "[q]ualifications-based selection is supported not only by the ACEC but also by the Royal Architectural Institute of Canada, Engineers Canada, the International Federation of Consulting Engineers, the American Public Works Association, and organizations worldwide." According to him, the City of Calgary has been using this approach successfully for many decades. As well, he noted that, in the U.S., "it's legislated that if the federal government is going to buy engineering or architectural services, it must use qualifications-based selection." Further, he explained that in the U.S., "[a]fter 40 years there was an extensive study of 200 projects. They found that using qualifications-based selection with a post-negotiated fee with engineers and architects reduced construction



overruns by 70%. Schedule overruns were reduced by 20%.”²³ With this approach, he argued, “you get the right outcomes, the right team, realistic schedules and budgets, fewer change orders and disputes, a better business relationship, and at the end of the day, better service, better quality, and better value for taxpayers.” This idea was “validated 10 years ago by *InfraGuide*, a publication written by the public sector for the public sector.” He advised the Committee that ACEC was in discussion with PSPC for a pilot project on qualifications-based selection.

3.10 Collecting Data and Establishing Targets

Several witnesses discussed establishing targets for SME procurement. Dr. Orser suggested that the federal government should consider a 25% goal for procuring goods and services from SMEs. According to her, this “demonstrates a commitment to bring SMEs in proactively, [and] is part of the solution.” She added that “we could learn from the experience of the U.S.”

Some jurisdictions set targets in terms of a percentage of contracts awarded to SMEs, for example, a percentage of the dollar value or a percentage of the volume.

The U.S. has established a number of prime contracting procurement goals, namely that at least 23% of all federal government contracting dollars should be awarded to small businesses, and of this target, that 5% be awarded to women-owned small businesses, 5% to small disadvantaged businesses, 3% to service-disabled veteran-owned small businesses and 3% to historically underutilized business zones.²⁴ According to Mr. Cornelius, the U.S. has achieved this goal for the last three years.

Similar to Canada, most businesses in the U.S. are considered small, noted Mr. Cornelius. However, the U.S. Small Business Administration defines a small business differently. Businesses are categorized as small based on the national index code of their operations. As explained by Mr. Cornelius, “[t]here are different ways that [the U.S. government] define[s] small businesses and it’s based on industry comparisons and revenue comparisons for industries.” Mr. Parker added that “[w]ith the number of employees, you can have as few as about 100 employees and still be considered small, or as many 1,250 employees and still be considered small. Then, on the revenue side, you can be considered small with as little as \$750,000 in revenue or as much [as] \$20 billion in revenue.”

23 Paul Chinowsky and Gordon Kingsley, *An Analysis of Issues Pertaining to Qualifications-Based Selection*, 2009.

24 United States [U.S.] Small Business Administration, “*About Office of Government Contracting*.”

The U.S. federal government has several set-asides programs that are targeted to certain types of small businesses. Federal purchases up to the simplified acquisition threshold of US\$150,000 must be exclusively set-aside for small businesses. In addition, there must be at least two or more (Rule of Two) responsible small business concerns that are competitive in terms of market prices, quality, and delivery for an automatic set-aside to occur. Federal contracts above the simplified acquisition threshold of US\$150,000 must also be set aside if the "Rule of Two" is met, meaning that there are two or more responsible business concerns that are competitive.²⁵

Mr. Burn explained that unlike the U.S., Canada does not have a "sweeping federal procurement program." He added that "[t]he *Small Business Act* in the U.S. states that small businesses should receive a 'fair proportion' of federal contracts, and that small businesses and small minority-owned businesses should have the 'maximum practicable opportunity,' therefore there is a lot of scope."

According to Mr. Sreter, the U.S. does not have internal trade restrictions, so they are able to employ SME set-asides. He explained that U.S. federal department procurements of under US\$150,000 are set aside for small businesses at large. Further, he noted that under their Small Business Innovation Research (SBIR) Program, there is a wide interpretation of what innovation means for purposes of small business set-asides. For example, the program is not only for research and development, but also for the follow-on sales (the first sales), that are then given to U.S. government departments and agencies.

The small business set-asides program includes a non-manufacturing rule, whereby if a small business prime contractor does not itself manufacture the products or materials that it provides to the government under a set-aside contract for supplies, it must supply the product of a small business.²⁶

In addition, federal contracts over US\$650,000 – except for construction, where the threshold is increased to US\$1.5 million – are subject to small business subcontracting plans, which must establish subcontracting goals for small businesses, small disadvantaged businesses, HUBZones, veteran-owned, service-disabled veteran-owned and women-owned small businesses.²⁷

Subcontracting limitations apply to contracts over US\$150,000. Under the set-aside program, a small business acting as a prime contractor must

25 U.S. Small Business Administration, "Types of Contracts," *Contracting Guide*.

26 U.S. Small Business Administration, "Governing rules and responsibilities," *Contracting guide*.

27 U.S. Small Business Administration, *About Office of Government Contracting*, 2 February 2018, [reference document submitted to OGGO, 2 February 2018].



- provide at least 50% of the contract cost for personnel in relation to service contracts;
- perform work for at least 50% of the cost of manufacturing supplies, not including the cost of materials, unless the concern qualifies as a non-manufacturer, in relation to supply contracts;
- perform at least 15% of the cost of the contract with its own employees, not including the cost of materials, in relation to general construction contracts; and
- perform at least 25% of the cost of the contract with its own employees, not including the cost of materials, in relation to specialty construction contracts.²⁸

As another example, the U.K. set an aspirational target to have one third (or 33%) of central government procurement spending benefit SMEs by 2022, either directly or indirectly via the supply chain.²⁹ The U.K. follows the OECD's definition of an SME, which means a business with fewer than 250 staff, and turnover of less than or equal to €50 million and/or a balance sheet total of less than or equal to €43 million.

Dr. Chideock explained that the U.K. public sector abides by EU procurement rules, and as such, it would be illegal for them to focus on specific quotas or sectors.

According to Dr. Chideock, the government had previously set a target for 25% of government procurement to reach SMEs by 2015, which was met in fiscal year 2014–2015. However, she noted that according to recent statistics, their direct and indirect spending with SMEs in 2015–2016 was 24%. As well, she noted that for larger contracts, the U.K. requires businesses to provide information on spending in the supply chain.

Dr. Chideock shared that the CCS works with government departments to make them aware of the government's target to spend one third of procurement with SMEs by 2022 and to require them to have sub-targets. She emphasized the importance of internal and external communication in reaching this goal. The U.K. also has a small business Crown representative, who "holds the government's feet to the fire in dealing with small businesses."

28 U.S. Small Business Administration, "Governing rules and responsibilities," *Contracting guide*.

29 United Kingdom Government, *Government is open for business*.

According to Mr. Parent, "CFIB has always been reticent about set-asides, and the [University of Ottawa] study did some analysis of the American model. It showed there weren't many noticeable, positive developments from the set-aside program."

Setting new requirements or targets for procurement is difficult without first understanding the government's starting point in terms of the proportion and value of procurements that are awarded to SMEs, to Indigenous businesses, to women-owned businesses, and to other diverse businesses, and what sectors those procurements are in.

According to Mr. Leduc, "[b]etter tracking data is needed to understand where government procurement currently sits." Dr. Riding noted that "we're struggling with a lack of data that's so basic we don't actually know our starting point." Similarly, Ms. Sheppard noted that "[i]t is difficult to track [progress] when it comes to supplier diversification, as limited monitoring and reporting is taking place." She emphasized that "[t]racking and monitoring are key. If it's not measured, you can't see if changes are impactful and successful."

Dr. Orser also suggested that procurement could have criteria for outcomes related to innovation or to diversity. In her opinion, these outcomes could be specified by the government, depending on what's important. However, Mr. Leduc believes that "[s]etting quotas for SMEs means diversity-led and Indigenous firms will not have the socio-economic impacts they seek unless we address some of these current impediments to SME procurement."

3.11 Outreach and Communication

Mr. Gray shared that the Office of Small and Medium Enterprises (OSME) engages with the supplier community across Canada, resulting in "between 1,100 and 1,200 events with supplier communities, one-on-ones, to explain to them how to access [federal procurement contracts]." As well, he noted that OSME gives businesses information on how to access tenders on buyandsell.gc.ca, for example, through automatic email notifications of any tenders that would be of interest to them, based on their area of business. Further, he noted that "[t]he outreach activities [OSME has] done go right across Canada, including in remote communities."

Mr. Christie explained that "OSME is very effective at understanding small business needs and advocating for the small business point of view inside the procurement system." Ms. Sheppard agreed, noting that her organization, NLOWE, finds OSME very helpful when it comes to outreach. However, she believes there's a larger role for OSME, business associations and business owners, which needs to be spearheaded.

Mr. Boudreau noted that since many SMEs see federal procurement as too complicated,



"[e]fforts to educate and inform them are necessary." Dr. Orser believes that although OSME is doing great work, there is an issue with communicating with SMEs and that a lot more work needs to be done.

According to Dr. Orser, the findings of the study on SME participation in federal procurement "suggest that increasing the engagement of more SMEs in federal contracting requires communicating to SMEs that the federal government is open for business across all sectors." She believes that "a hallmark of effective entrepreneurial ecosystems is the engagement of entrepreneurs." She encouraged the federal government to be more proactive engaging small businesses across all sectors, by getting to know suppliers and their skills and competencies in terms of delivering products and innovation. In its brief submitted to the Committee, Thinking Big suggested that the federal government should "[p]ublish more information about what the government will be buying at the beginning of a new fiscal year."

Dr. Orser suggested that "[a] diversity of Canadian entrepreneurs across sectors, business models, and stages of procurement should be consulted on program design, execution, and monitoring. Such engagement will help to address a long-standing assertion that Canadian governments at all levels have been lethargic in employing procurement as a mechanism to support Canadian small and medium-sized enterprises." She later added, "[p]roactive outreach by the federal government and a really strong communication campaign will bring more contractors to your door. By doing that, you're going to increase the quality of your suppliers."

Dr. Chideock highlighted that the U.K.'s efforts to simplify procurement and increase transparency are part of a change program that requires the CCS to influence those within government making procurement decisions. According to her, "it's getting that message out there and combining both carrots and sticks to make sure people change their mindsets." She noted that they use social media and free webinars to reach out to small businesses.

According to Mr. Cornelius, the U.S. Small Business Administration provides counselling and technical assistance in order to make sure that small businesses are aware of federal contract opportunities and to help them succeed in getting those contracts. He noted that field staff, procurement centre representatives and commercial marketing representatives will counsel, train, and develop small businesses throughout the contracting phases, so that the small businesses have access and know what they're doing. He added that procurement centre representatives and commercial marketing representatives help small businesses by making sure they understand the rules, regulations and playing field, and they act as professional advisers on putting in a bid.

As well, he shared that the U.S. Small Business Administration provides grants to universities and colleges to help create small business development centres, which offer counselling services to assist with business acumen, covering matters related to business plans, human resources and legal issues.

The relationship between a supplier and buyer is different in federal procurement as compared to the private sector. Mr. Parent explained that bidders often can't talk to the end buyer or user of their product or service. Mr. Boivin suggested that the federal government should organize "industry days" with SMEs and large businesses. He acknowledged that while it may be difficult for an SME to have access directly to government purchasing, it may be easier for it to act as a sub-contractor for a larger business.

Feedback is another way to increase outreach. According to Ms. Sheppard, the federal government should "[p]rovide feedback to unsuccessful bidders. Businesses that are unsuccessful in the bidding process need to have constructive feedback on why they were not successful in order to increase their chances of winning the bid the next time." In its brief, the BC Tech Association recommended that the government disclose procurement outcomes, in particular that the rankings should be proactively disclosed to all of the proponents as part of the notification to unsuccessful bidders. The brief notes that "[w]hile respecting business confidentiality, disclosure of scores and bidding companies may further the goal of enabling smaller companies to recognize potential alliances with larger bidding companies."

3.12 Making Procurement More Inclusive

There is industry support for the federal government to have a supplier diversity program. According to Dr. Orser, "Canadian SMEs would benefit from a well-designed, regulated, and monitored federal supplier diversity program." She added that, "[t]he private sector has led the way in supplier diversity programs, programs that are creating more robust entrepreneurial ecosystems." According to Dr. Riding, it is important to "identify the areas within diversity that are different and where people who are different are disadvantaged." In his view, "there is a lot of merit in being inclusive and diverse." For instance, Dr. Orser told the Committee that increasing the diversity of suppliers enhances competitiveness. As well, she noted that supporting the diversity of SMEs would increase innovation. She went on to say that "numbers bring innovation and representation, and I think that that closed-shop perspective would limit innovation and value for our government."

On the U.K. experience, Dr. Chideock shared that in her view, "the focus on diversity is good for the business world in the U.K. It drives competition. It means we are buying



from a wider marketplace, which has got to be good value for the taxpayer and for businesses and society alike."

Mr. Gray explained that the government "analyze[s] the actual volume of suppliers to see how many suppliers repeat in ... business and how many new suppliers come in." He added that the government is "very interested in ensuring a diversity of suppliers and new suppliers, because part of the notion of value is to ensure we broaden and expand our supplier base. That's what indicates better competition and better value for Canadians." According to Mr. Gray, OSME targets "specific socio-economic groups to ensure the benefits are applied broadly." For example, he noted that OSME has done "events for green and clean technology, Indigenous communities, women's businesses, multicultural communities, minority official languages groups, and youth." He explained that OSME has a strong diversity strategy and is measuring its effect by looking at the suppliers that are accessing the federal procurement process.

Ms. Anderson encouraged the federal government to increase SME participation and supplier diversity, by incorporating best practices from other levels of government, other jurisdictions and the private sector. She suggested that the federal government look to major financial institutions in Canada that have supplier diversity programs. Similar programs are administered in sectors such as the automotive sector (Toyota Canada Inc. and General Motors of Canada), the telecommunications sector (Bell Canada and TELUS Corporation) and the City of Toronto. Ms. Allan highlighted that "over 95% ... of Fortune 500 companies have their own targeted supplier [diversity] programs." In its brief, Thinking Big recommended that the federal government recognize corporate leadership diversity in scoring additional points in the evaluation of bids.

The Committee also heard from BGIS, a company that provides real estate management services and that has extensive experience with government contracts and with subcontracting. According to Mr. Hicks, two key priorities for engaging SMEs involve offering contracts regionally and setting up regional procurement teams to understand the nuances of those local regions. As well, he mentioned the importance of outreach initiatives and noted the company's involvement with a number of industry associations, such as the Aboriginal and Minority Supplier Council, women-owned business enterprises, and the Canadian Gay and Lesbian Chamber of Commerce, among many others.

Regarding best practices, Dr. Orser noted that "the City of Toronto is really becoming a world leader in diversity procurement." Following this example, the federal government could be more innovative in framing quality and price criteria in its contract requirements. Dr. Orser explained that the City of Toronto is becoming more flexible in terms of who might qualify for municipal contracts. She told the Committee that

"Newfoundland and Labrador was amongst the first to bring diversity procurement into its offshore oil extraction." She also noted that British Columbia had a diversity supplier commitment for the 2010 Olympic Winter Games. However, she commented that the fact that she could name only a few examples of jurisdictions with supplier diversity practices would suggest that they are not prevalent.

Mike Pacholok, Chief Purchasing Officer of the Purchasing and Materials Management Division of the City of Toronto, described the city's Social Procurement Program as "the practice of using [the city's] procurement power to create positive social and economic outcomes. The idea behind social procurement is that the dollars we spend get used twice: once for our operations and another for social impacts intended to achieve a double bottom line. Social procurement is about leveraging even a small portion of our procurement [spending] to create economic opportunities for people experiencing economic disadvantage, systemic discrimination, and barriers to equal access." He added that the city's Social Procurement Program was implemented in 2017.

According to Ms. Anderson, the City of Toronto "recognize[s] certification councils and invite[s] diverse suppliers to participate in groups of bids." She explained that the city works with a database of diverse suppliers, which WBE Canada developed and updates monthly. Mr. Pacholok noted that one of the program's objectives is to diversify the city's supply chain by creating an enabling environment that allows businesses owned by certain groups, such as racialized and Indigenous people, minorities, women or people with disabilities, and social enterprises "to compete for city contracts on their own or as part of a partnership with larger businesses." He explained that for contracts under \$100,000, which do not go on the open market, the program would require the city's staff to contact at least one certified diverse supplier to allow it to bid on the contract. He indicated that certification of diverse suppliers is done by third-party supplier councils. For contracts worth \$100,000 and above, which go on the open market, he said that certified diverse suppliers or businesses with a supply chain policy in place would be awarded additional points. He told the Committee that in 2017, the city spent \$550,000 on 42 contracts under \$100,000, which were awarded to certified diverse suppliers.

Mr. Pacholok mentioned that another objective of the program is to "create training, apprenticeships, and employment opportunities for economically marginalized residents." He explained that in order to do so, the city asks proponents "to submit a proposal on their workforce development that they would want to do during their contract" or set out certain items that it wishes to be done as part of the contract. He said that the city then helps the vendor to access potential candidates and monitors progress and outcomes.



3.13 Partnerships and Subcontracting

Joint ventures are a way to “provide opportunities for SMEs to come together, partner, and look at ways to get some of the bigger contracts,” shared Ms. Reza. She noted that because the government’s supplier base is predominantly SMEs, they make sure not to set criteria and limits so far out of range that they cannot participate. Mr. Gray added that OSME aims to help SMEs be part of a supply chain, and that “[t]hey don’t necessarily have to be a tier one supplier, but they can be a very effective tier two or tier three [supplier]. The trick is to build the partnership.”

One way the federal government encourages partnerships is through subcontracting requirements that include SME set-asides in complex contracts, an element of the Industrial and Technological Benefits (ITB) Policy.³⁰ However, some witnesses raised concerns about its effectiveness. Mr. Akrouche commented that with the creation of OSME, the federal government “wanted the [SMEs] to partner with the big firms so that the big firms could give them support and nourishment in the process of being innovative and providing what they are really good at.” In fact, he noted that this has not necessarily been successful in the case of the ITB Policy. He argued that the big firms tend to keep all of the intellectual property and the research work for themselves, and dictate what type of work the SMEs receive. In order to create the conditions so that SMEs can team up together, he recommended that the federal government reduce some of its requirements, such as the length of time a bidder must be in operation to qualify for government contracts.

As well, Mr. Christie remarked that ITB is a complicated process and that it takes a long time to get these types of procurement contracts through the system. However, he believes that this approach can encourage large bidders to partner with small businesses. He noted that the government needs large bidders “to engage with small bidders prior to actually submitting a bid, with the understanding that the participation of those small companies is essential to their winning the bid.” He argues that “[t]his will give our small businesses the leverage they need to conduct the negotiations that are

30 The Industrial and Technological Benefits (ITB) Policy “applies to eligible defence and Canadian Coast Guard procurements valued at over \$100 million and exempt from international trade agreements. Procurements valued between \$20 million and \$100 million are also reviewed for the application of the ITB Policy.” The ITB Policy rates and weighs companies bidding for defence contracts based on the value of the industrial and technological benefits they propose to invest in Canada (the Value Proposition). Bidders’ Value Propositions are evaluated and scored based on four key criteria: how they plan to invest in the Canadian defence sector, provide work to Canadian suppliers, undertake research and development in Canada, and promote exports from Canada. See Martin Auger, The Evolution of Defence Procurement in Canada, Publication no. 2016-09-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 4 February 2016, p. 9.

advantageous to them to make sure that they participate in the procurement process in ways that they deem to be of most value to themselves." [Mr. Boudreau](#) agreed that "it is possible to indirectly facilitate the participation of SMEs in government procurement ... making it easier for big businesses that have landed major contracts to establish ties with SMEs."

Several witnesses agreed that the federal government could help smaller companies partner with larger companies. [Mr. Long](#) believes that "[o]ften a smaller company needs to have a bigger one help it along when doing business with the government." According to [him](#), "small companies are better at innovation; ... big companies are better at showing financial capabilities and following processes.... If you marry those together, I think you can get lots of small businesses doing business with the government." For example, [he](#) told the Committee that "[w]ith MNP as the lead applicant representing SageTea, last month [it was] able to achieve an SLISA, a software licensing supply arrangement, [a] win for all of [its Build in Canada Innovation Program]-tested products." Sharing a similar view, [Dr. Sue Abu-Hakima](#), Co-Founder and Chief Executive Officer of Amika Mobile Corporation, suggested that the federal government could require larger companies to subcontract with smaller companies. [Mr. Boivin](#) had a similar recommendation; he suggested that the federal government "bring together SMEs and large businesses that perform major projects for the Government of Canada."

The BC Tech Association, in its [brief](#), suggested that the government expand access to co-developed RFPs and joint solution proposal submissions. Specifically, the association recommended "expanding access to tech companies for a joint solution proposal for smaller bids."

The U.S. Small Business Administration facilitates joint venture agreements for SMEs. According to [Mr. Cornelius](#), the U.S. agency "create[s] matchmaking facilitated events where [they] will match people with people who have the same lifetime experience or industry interconnections. We see if they can get together and become a joint venture and go for a bid. The individual, without that, would not have been successful in getting a bid."

According to [Dr. Chideock](#), "SMEs will benefit in the supply chain, and often for some businesses that's a good way to start out in doing business with government." [She](#) noted that the CCS is asking "the departments who are developing the prime contracts in the first instance to work with the prime in advertising the subcontracting opportunities."



3.14 Committee Observations and Recommendations

The Committee members recognize that the complexity of the federal procurement process can pose significant barriers to SMEs. The Committee is concerned that the majority of SMEs in Canada do not consider the federal government as a potential client, and those that do, are often discouraged with the process. As such, the process could be greatly improved for SMEs. The Committee heard from several witnesses that a diversified supplier base populated by SMEs would encourage innovation and benefit the federal government in delivering value. Since the majority of businesses in Canada are SMEs and they contribute significantly to job creation, the Committee members recognize that expanding the supplier base with more SMEs would have a positive impact on the Canadian economy.

During the course of its study, the Committee heard a wide-range of views from business associations, academics and consultants concerning the participation of SMEs in the federal procurement process. Witness suggestions centered on simplifying the process in general and especially for SMEs. Proposed solutions from witnesses included the following, among others:

- eliminating or reducing certain barriers to participation, such as the length of time and costs of contracting, as well as overly complex terms and conditions and onerous requirements included in federal contracts;
- adding new tools, such as a supplier performance rating system;
- establishing targets and set-asides for SMEs; and
- expanding outreach and communication initiatives.

The government should take into account these suggestions in its drive to simplify procurement processes. Further, Committee members encourage PSPC to better coordinate with the Minister of Small Business and Tourism to benefit SMEs.

The Committee members agree with the findings of the Procurement Ombudsman that the federal procurement process needs to be simplified, clear and comprehensive. They acknowledge the federal government's need to review policies and procedures, including the Treasury Board Contracting Policy, in order to streamline the procurement process and reduce contract requirements. According to PSPC's *2018–19 Departmental Plan*, there will be upcoming changes to the process for low-complexity procurement, including eXpress procurement tools, simple contracts, and a government-wide Contract Data Strategy, and the pilot project on a vendor performance management regime. In

addition, the federal government committed in its 2018 budget to establish a new electronic procurement platform, e-procurement, to help SMEs and diverse suppliers better access opportunities to compete in federal procurement processes.

However, the Committee members believe that further improvement will be required to expand the participation of SMEs in the federal procurement process. They encourage the federal government to consider implementing a simplified procurement process specifically for SMEs or for contracts below a certain threshold.

Further, the Committee heard from some witnesses that setting SME targets for participation in the federal procurement process, including targets for women-owned businesses, Indigenous businesses, and other disadvantaged businesses, would help the government diversify its supply chain, which would provide broader societal benefits. In order to meet these targets, some witnesses encouraged the federal government to examine the possibility of designating a proportion of procurement contracts (set-asides) for SMEs and other designated groups. The Committee members acknowledge that data collection and analysis is an important step in setting these targets. This includes measuring the proportion of procurements that are awarded to different types of SMEs and gathering gender-based data and industry-specific data. The Committee heard from some witnesses that communicating these goals to procurement officers and to potential suppliers is critical.

The federal government has indicated that a top priority for modernizing the procurement process includes “developing initiatives to increase the diversity of bidders on government contracts, in particular businesses owned or led by Canadians from underrepresented groups, such as women, Indigenous Peoples, persons with disabilities, and visible minorities, and tak[ing] measures to increase the accessibility of the procurement system to such groups while working to increase the capacity of these groups to participate in the system.”³¹

Consequently, the Committee recommends that:

Recommendation 4

The Government of Canada, in particular the Treasury Board Secretariat and Public Services and Procurement Canada, modernize its policies and procedures for contracting, including streamlining requirements and updating terms and conditions, taking into consideration the findings of the Office of the Procurement Ombudsman.

31 Justin Trudeau, Prime Minister of Canada, *Minister of Public Services and Procurement Mandate Letter* (October 4, 2017).



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Recommendation 5

The Government of Canada, in particular the Treasury Board Secretariat, align procurement policies, processes, procedures, and practices to ensure ease and consistency of experiences for suppliers across all federal government departments and agencies.

Recommendation 6

The Government of Canada, in particular the Treasury Board Secretariat, learn from and use the expertise of Public Services and Procurement Canada in the development of government-wide procurement policy.

Recommendation 7

The Minister of Public Services and Procurement and the President of the Treasury Board work closely with the Minister of Small Business and Tourism to reduce administrative burden on small and medium enterprises in the procurement process.

Recommendation 8

The Government of Canada develop procurement strategies that will support small and medium enterprises and increase inclusivity, through consultation with small and medium enterprises and relevant experts.

Recommendation 9

The Government of Canada introduce a simplified and consistent process for procurements below the trade agreement thresholds across government, where applicable, and reduce the complexity of the process for small and medium enterprises, modeled after the simplified acquisition process best practices in the United States, such as the GSA Advantage Program.

Recommendation 10

The Government of Canada request that all procuring departments and agencies, during the early development of procurements, examine how small and medium enterprises, Indigenous-owned business, and women-owned business, are considered as part of the process.

Recommendation 11

The Government of Canada create a centralized repository of all standing offers issued by federal organizations to reduce duplication and to assess their effectiveness.

Recommendation 12

The Government of Canada simplify its invoicing process for small and medium enterprises and further accelerate its payments timelines, with a requirement to pay small and medium enterprises in less than 30 days.

Recommendation 13

The Government of Canada implement federal prompt payment legislation that includes timelines for payments to contractors and subcontractors, modeled after Ontario's prompt payment legislation, where applicable.

Recommendation 14

The Government of Canada implement measures to ensure that there is appropriate risk sharing in federal contracts and to determine which terms and conditions are appropriate relative to the size, nature and complexity of the procurement, so that they do not unfairly disadvantage small and medium enterprises, and that the Treasury Board its policy on decision making in limiting contractor liability and its policy on contracting are updated and clarified to implement such measures.

Recommendation 15

The Government of Canada implement strategies to encourage and promote procurement officials and suppliers to place greater emphasis on best value for Canadians, by including value propositions that give greater weight to qualifications and value rather than primarily focusing on price.

Recommendation 16

The Government of Canada implement a supplier performance rating system to evaluate and track vendor performance, which includes a component that recognizes new suppliers.



Recommendation 17

The Government of Canada collect and measure contract data on the proportion of procurements that are currently awarded to different types of small and medium enterprises, including gender-based data and industry-specific data.

Recommendation 18

The Government of Canada collect and measure contract data for supply arrangements and standing offers to better understand how often businesses included on these contract vehicles are called on for work.

Recommendation 19

The Government of Canada establish targets for the value and the number of federal procurement contracts that it awards to small and medium enterprises.

Recommendation 20

The Government of Canada examine the possibility of establishing procurement set-asides, in compliance with Canada's trade agreements, for small and medium enterprises, including set-asides for women-owned businesses.

Recommendation 21

The Government of Canada increase its recruitment, training and development of procurement specialists across all federal organizations and build on successful training programs, such as the intern procurement officer development program.

Recommendation 22

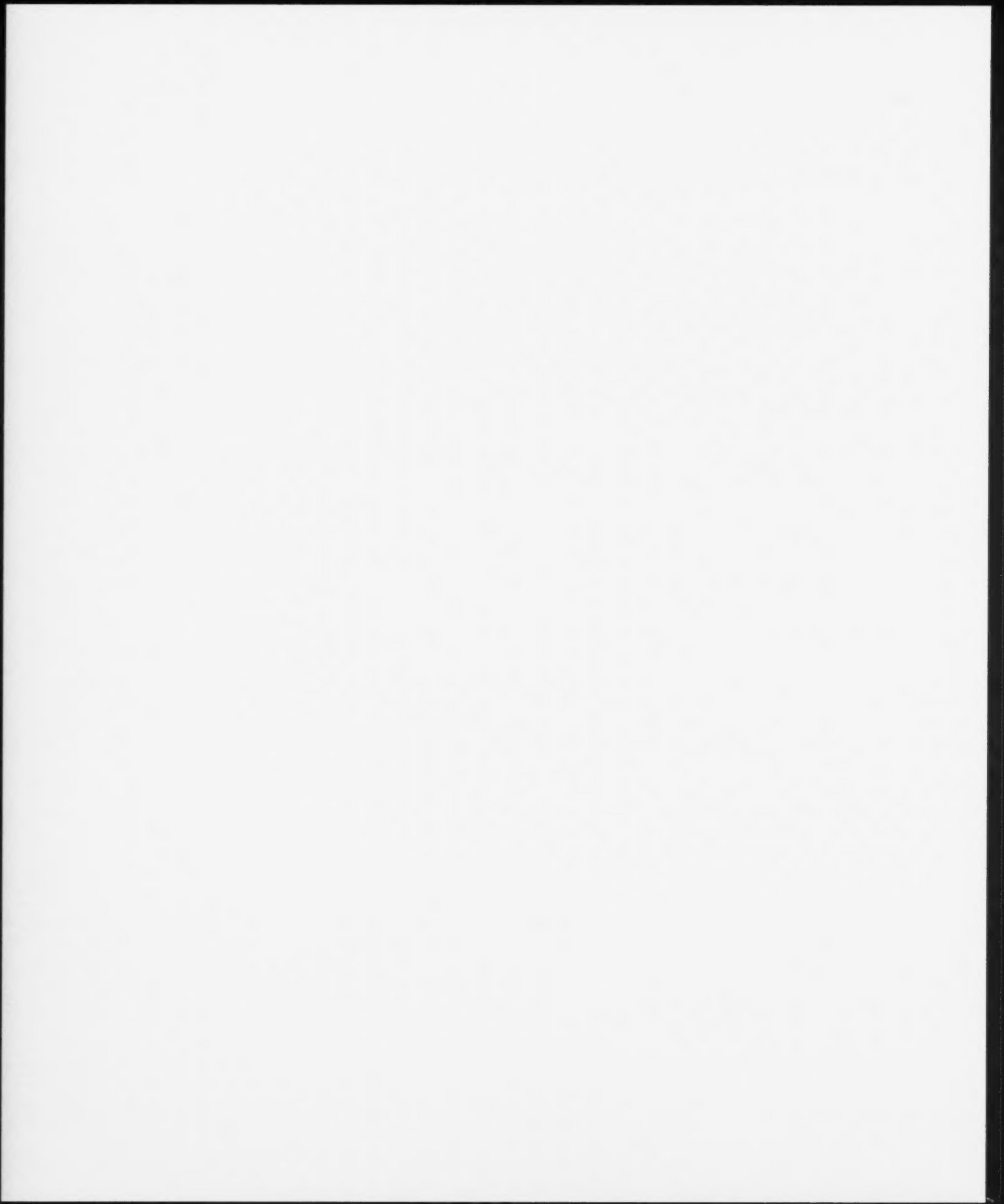
The Office of Small and Medium Enterprises increase its outreach and education activities to proactively engage with, evaluate the needs of, and provide training for small and medium enterprises to increase their ability to access procurement and to increase the number of successful bids and contract awards.

Recommendation 23

The Government of Canada increase the transparency of procurements by providing feedback to unsuccessful bidders and disclosing information on procurement outcomes.

Recommendation 24

The Government of Canada design procurement opportunities to facilitate the use of joint ventures and other partnerships between small and medium enterprises and with large businesses, and ensure that policies and practices are aligned to allow and encourage this approach.



CHAPTER 4: SUPPORTING INNOVATION

Our experience with the [Build in Canada Innovation Program] and the Office of Small and Medium Enterprises has been exceptional.

David Long,
Chief Executive Officer, SageTea Software

The Advisory Council on Economic Growth highlighted in its February 2017 report, *Unlocking Innovation to Drive Scale and Growth*, that government can adopt strategic procurement to drive innovation and growth. *Ms. Allan* suggested that the Committee consider the recommendations within that report, including those related to supply-push procurement and demand-pull programs. She explained that a supply-push procurement approach opens the procurement process to unsolicited offers, exposing the government to innovative ideas and options that officials may not know exist. *She* added that it's not just about having the open door to pitch, but also having an organization that's able to respond. *She* also noted that a demand-pull program is where organizations intentionally create demand for new or nascent technologies.

The federal government supports innovation in a number of ways. According to *Dr. Abu-Hakima*, her company benefited from government programs, such as the Scientific Research and Experimental Development Tax Incentive Program³² (SR&ED), the Industrial Research Assistance Program³³ (IRAP), the Build in Canada Innovation Program (BCIP), and the Canada-Israel Industrial Research and Development Foundation. She also noted that Amika Mobile Corporation has partnered with and supported universities and colleges through collaborative research funded through the Ontario centres of excellence, PRECARN (a previously funded centre of excellence), and the Natural Sciences and Engineering Research Council of Canada "to help train students and make professional research more relevant." However, *Annette Verschuren*, Chair and Chief Executive Officer of NRStor Inc. and member of the Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders, highlighted that Canada invests 40% less in ICT relative to U.S. small businesses and that it also invests 30% less in machinery and equipment.

32 The *Scientific Research and Experimental Development Tax Incentive Program* (SR&ED) provides tax incentives related to basic research, applied research, and experimental development.

33 The National Research Council's *Industrial Research Assistance Program* (IRAP) provides financial support to qualified small and medium enterprises in Canada to help them undertake technology innovation.



As well, Mr. Christie commented that Innovative Solutions Canada is another federal program that, although still in its early stages, seems to be holding a lot of promise. He explained that the program is “modelled on the United States” highly successful SBIR program and is designed to leverage procurements to fund and purchase innovative new products and services from small businesses, providing them with that valuable first-buyer support that they all tell us is critical, especially in the kinds of procurements that our companies are involved in.” He believes that the government should continue to reinforce this program. Paul Lem, Chief Executive Officer of Spartan Bioscience Inc., a BCIP participant, commented that within the health care, life science, and biotech sectors, he noticed that over the last 10 years, a lot of their competitors have taken advantage of the U.S. SBIR grants.³⁴

Dr. Orser reported that her study on SME participation found that “[i]n comparing supplier SMEs and all SMEs, we observed that supplier SMEs were more likely to report innovations, all types of innovation, including product, marketing, organizational, and process innovations. The most likely type of innovation was product innovation.”

Mr. Kendrick believes that the federal government can do more to encourage innovation. He recommended that the government implement mechanisms to encourage new ideas, innovation, and new entrants to the market, such as the unsolicited proposal program and an expanded BCIP. Mr. Boivin encouraged the federal government to use “procurement as a showcase for exporting certain innovations.” He explained that “[d]uring the start[-]up phase, which is really critical, if an innovative enterprise can show that the Government of Canada has used its product, this will accelerate its entry into markets considerably.” In his view, “the Canadian government should be an open technological showcase for innovative businesses, and allocate part of its procurement to the acquisition of emerging technologies or innovative products.” Mr. Boivin stated, “I think it is important to consider public procurement as a tangible form of contribution to economic development. To that end, it could be advantageous to create alliances between the private sector and the Government of Canada in order to further the development and ... export of Canadian technology and know-how.”

Dr. Riding noted that if the federal government wants to develop a program that's going to encourage suppliers to be innovative, for example, it has to measure that innovation

34 In the U.S., the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs encourage small businesses to engage in federal research and development (R&D) that has the potential for commercialization. The STTR program includes a requirement for small businesses to formally collaborate with a research institution. Both programs also encourage socially and economically disadvantaged small businesses (SDB) and women-owned small businesses (WOSB) to self-identify when applying for funding. Those metrics are tracked by the federal government and used to target outreach activities.

today and then measure it at the end of the day to make sure the compliance is there. He emphasized that the government needs “to sit back and organize a really serious way of collecting the data that is going to answer those questions.”

4.1 Build in Canada Innovation Program

OSME manages the Build in Canada Innovation Program (BCIP), along with the National Research Council, which reviews the innovation submissions. The BCIP assists Canadian businesses in testing their innovation of goods and services before they are commercialized. Mr. Sreter explained that, “[a]s BCIP relates to research and development services, it is not subject to the obligations of trade agreements.”

The 2018 federal budget “proposes to consolidate the existing [BCIP], focused on the procurement of later stage innovative goods and services, into Innovative Solutions Canada.” The BCIP was first announced in the 2010 federal budget as a pilot program, the Canadian Innovation Commercialization Program (CICP). The 2012 federal budget “committed to making the [CICP] permanent and to adding a military procurement component, which [would] be phased in gradually.”³⁵

To date, more than 285 contracts have been awarded under the BCIP, for a total value of more than \$126 million. According to PSPC, of those companies the program has helped, 80% have successfully commercialized their products, and 50 different innovations have been exported to 44 countries.³⁶ According to the Minister of Public Services and Procurement, BCIP has “contributed to creating 1,684 new full-time jobs across the country and generated significant economic impact.”³⁷

BCIP participants were consistent in their views that BCIP is an excellent way to bring innovation to government. As summarized by Mr. Long, “The purpose of the [BCIP] is to help Canadian companies move their state-of-the-art goods and services from the lab to the marketplace by giving the company that first major reference sale.” Mr. Long added, “Our experience with the BCIP program and the Office of Small and Medium Enterprises has been exceptional. The [BCIP] is a terrific program.”

35 OGGO, Evidence, 2nd Session, 41st Parliament, 9th Meeting, 10 December 2013, 1530 (Pablo Sobrino, Associate Assistant Deputy Minister, Acquisitions Branch, Department of Public Works and Government Services).

36 PSPC, “Government of Canada supports Alberta firm through Build in Canada Innovation Program,” News release, 8 February 2018.

37 PSPC, “Government of Canada invests in women’s health solution through Build in Canada Innovation Program,” News release, 23 November 2017.



BCIP participants shared their success stories with the Committee. Amika Mobile Corporation first participated in the precursor to the BCIP, the CICIP, with an emergency communication and safety system innovation. According to [Dr. Abu-Hakima](#), after testing, Communications Research Centre Canada bought the products and has been paying Amika support since 2011. The company then participated in the BCIP with a different federal organization. As Dr. Abu-Hakima explained, the Canada Border Services Agency “has been [its] customer since 2014 because of BCIP, not because of any responses ... to RFPs.” Finally, Amika developed its innovation to integrate with gunshot detection, and “now the RCMP is testing it through BCIP.” For Amika, participating in the BCIP was their first substantial sale. According to [Dr. Abu-Hakima](#), because of both BCIP opportunities in Canada, the company now has U.S. government customers.

According to [Dr. Abu-Hakima](#), “procurement is like a stone wall in the federal government.” She told the Committee that after 17 years of trying to sell to the government, “BCIP has been the only way [her company has] been able to bring [its] innovative technology to multiple departments.” Her company has been through the OSME training and still cannot win a contract. In [her](#) view, “there's something broken somewhere.”

In another example of growth linked to BCIP, [Mr. Long](#) noted that SageTea Software’s “sales to government are approximately \$1.25 million to date.” He added that “[w]hen you consider that we are only a little over five years old and started in my wife's basement, I think most of you would consider that quite an accomplishment.” [His](#) company benefited from the BCIP follow-on sales program to test Text-to-Software at the Department of Fisheries and Oceans, which is now available to the department and across government through the SLSA.

BCIP gives departments access to separate funding. According to [Mr. Lem](#), PSPC told him that the department had wanted to fund a study on DNA testing of Legionella bacteria for years, but they did not have the budget themselves, and that “BCIP allowed them to do it.” He added that through BCIP, “\$500,000 has now funded, over 12 weeks, [the testing of] 51 cooling towers in Ottawa, Toronto, and Montreal.” He emphasized that “BCIP was an amazing success.... If it didn't exist, we wouldn't have this billion-dollar opportunity in which we're probably going to be the world leader.”

Another issue relates to a department's willingness and ability to spend funds mid-year for innovative procurement. According to [Mr. Long](#), SageTea Software found that “when it's BCIP money that's being spent, it's relatively easy to convince a department to be a test department.” However, if a department wanted to purchase those innovative goods or services after the testing phase, it would then need to come up with its own

procurement funds. In some cases, departments may say that they have already finalized their spending plans for the year.

Consistent with the views of BCIP participants, Mr. Parent noted that "BCIP has been a successful initiative, encouraging SMEs to approach government with innovative products and solutions. It also shows that communication between suppliers and end-users can be productive, but more must be done." Mr. Christie agreed that BCIP is viewed by SMEs as a real success. He noted that "BCIP is a great opportunity for small companies to access procurement opportunities in Canada."

Barriers to innovation were discussed by several BCIP participants. Mr. Long noted that "[t]he Innovation, Science and Economic Development website states that: Between 2011 and 2013, small businesses accounted for 27[%] of total research and development expenditures, spending \$13.0 billion over the period. ... Lacking both a credit history and the collateral needed to secure a loan, over 80[%] of start-ups used personal financing to finance their new businesses." Mr. Long added that, "[a]cross Canada, the risk that is taken by entrepreneurs is shouldered, in my view, largely by individual Canadians and their families." He added that this risk stifles innovation and that government should reward risk-takers within its own ranks.

The cost and time involved in a BCIP application can be a barrier for some. Mr. Long noted that "[w]hile recent process changes have brought improvements, it can still take more than a year from the start of the [BCIP] application process to the awarding of the contract." He explained that "[s]mall businesses can easily launch and go out of business if they fail to secure sales targets after investing in those opportunities. This is an example of risk and how it plays into whether a firm can even make it through a BCIP procurement."

Increased marketing of BCIP was suggested by BCIP participant, Dr. Abu-Hakima. As well, Mr. Long encouraged the government to organize BCIP conferences, with a focus on customers and providers "without the heavy weight of procurement and RFPs."

According to Mr. Long, to encourage innovation inside government, the federal government should develop a policy to allow BCIP winners to rate and recommend their test departments on an official list. In his view, "[i]f the government were then to have a policy of recognizing and rewarding the top innovative test departments, then it's likely we would see the pace of innovation inside the government accelerate."

Some BCIP participants said it would be helpful if the federal government could provide additional support to entrepreneurs after participating in the BCIP. Mr. Long suggested that the federal government establish an internal government incubator program for



successful BCIP innovations to connect BCIP companies with demand under an automatic procurement program. He believes this would be an effective way to accelerate innovation. He explained that “[c]urrently, BCIP winners still need to hunt for their next client.” [Mr. MacGregor](#) shared a similar view, stating that “[g]enerally the door is closed because [the federal government doesn’t] have the time or the focus for innovation.” In his view, a government accelerator “could actually change that focus so it is innovative and is actually looking for ways to bring value to government and to Canadians.”

Another suggestion made was to allow for additional sole-source contracts under the BCIP. [Mr. MacGregor](#) advised that it would be beneficial if successful BCIP participants could continue to provide sole-source contracts to federal departments and agencies for a longer period of time, and for a larger number of contracts. In a [brief](#) submitted to the Committee, Wayne Coulson, owner of the Coulson Group of Companies, a Canadian SME, suggested that the government adopt an outreach platform where innovations funded by government get reviewed by a team and trialed wherever cost savings can be achieved within government. He argued that this concept would bring full circle the financial assistance provided to SMEs with cost savings provided to the government by those Canadian innovations.

Along the same lines, [Mr. Lem](#) suggested that after companies “graduate out of the BCIP,” the federal government could provide help on procurement to roll out their innovation across Canada to every province and municipality, and to markets worldwide.

[Dr. Orser](#) commented that “[i]n terms of bringing women into the program for standard contracting opportunities, to the best of my knowledge, there’s been no reporting on the programs such as the BCIP.” In her view, there’s an opportunity to evaluate the BCIP through a gender lens because of the limited number of firms, approximately 200, which would be manageable to review. Currently, there is no reporting or monitoring of the profile of firms in programs such as BCIP, and therefore, in her view, it is impossible to monitor them.

Several witnesses encouraged the federal government to expand and increase funding for the BCIP. BCIP is currently a \$40-million program; however, [Dr. Abu-Hakima](#) suggested that it could expand to be a \$250-million program, similar to IRAP. [Mr. Christie](#) commented that the federal government should find more ways to work directly with small businesses, including by boosting the BCIP.

4.2 Committee Observations and Recommendations

Some witnesses encouraged the federal government to develop future programs or expand current programs, such as the BCIP. The Committee members acknowledge that the federal government needs to track data on innovation outcomes so that it can evaluate the starting points and measure success. Further, some witnesses suggested that this data should be tracked on a gender-segregated basis to inform policies that can facilitate the participation of women entrepreneurs and women-owned businesses in innovation programs.

The Committee heard success stories from various BCIP participants. Several witnesses called for additional support beyond the initial BCIP opportunity. The Committee members encourage the government to examine whether it could extend sole-source contracts or create set-asides for successful BCIP participants.

Consequently, the Committee recommends that:

Recommendation 25

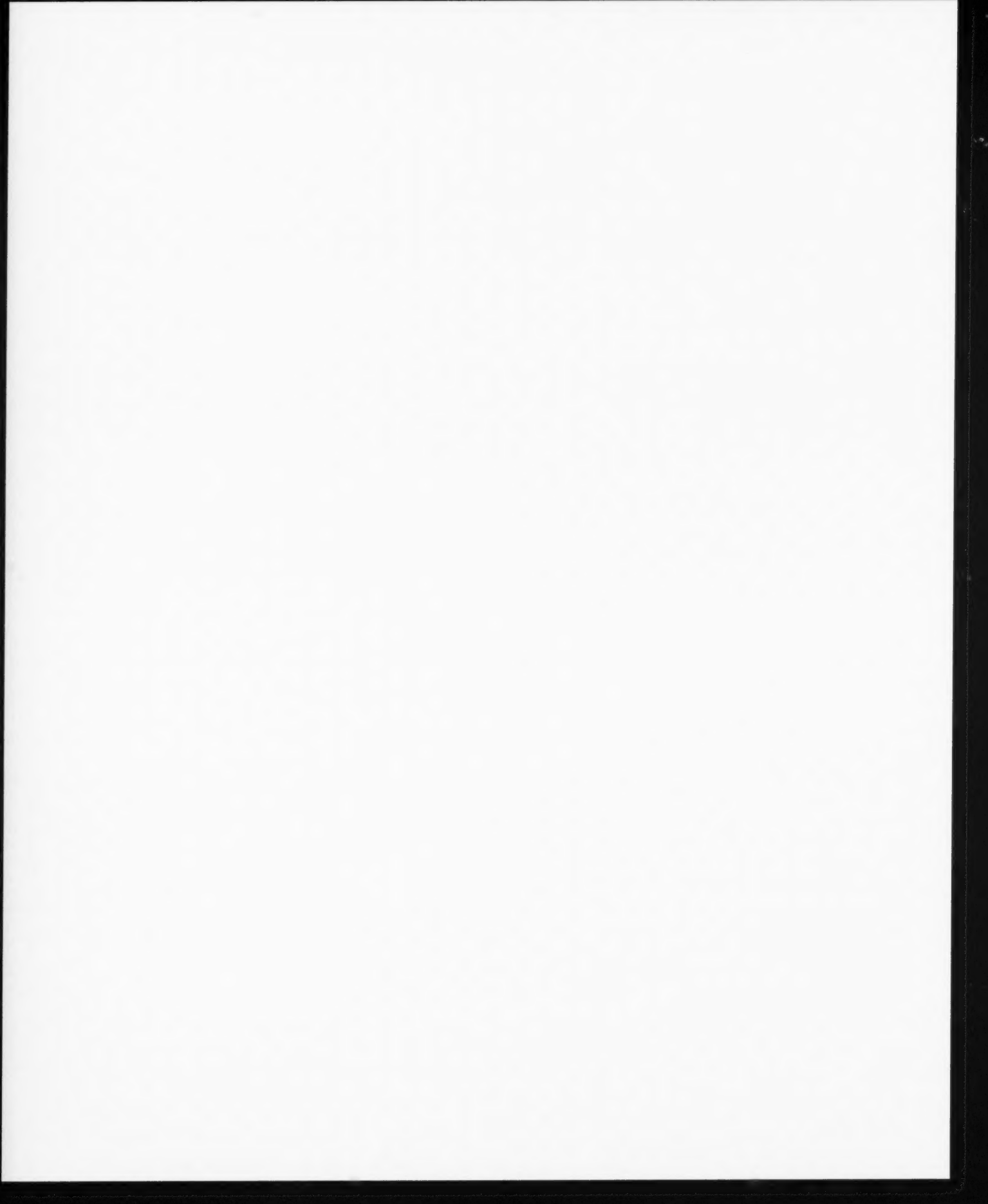
The Government of Canada continue to run the Build in Canada Innovation Program as part of Innovative Solutions Canada, and that Innovation, Science and Economic Development Canada use and build on the expertise of Public Services and Procurement Canada in the continued implementation of the program.

Recommendation 26

The Government of Canada expand the Build in Canada Innovation Program to increase the number of participants, increase marketing of the program and establish metrics to measure outcomes related to innovation.

Recommendation 27

The Government of Canada develop opportunities for successful participants of the Build in Canada Innovation Program to encourage follow-on sales with the government for a defined period of time following the completion of the program.



CHAPTER 5: SUPPORTING WOMEN-OWNED BUSINESSES

"[T]he size of procurement really makes it obvious that the federal government is not interested in dealing with small and women-owned businesses; they would rather deal with larger entities."

Mary Anderson,

President, Women Business Enterprises Canada Council

5.1 Women-Owned Businesses in Canada

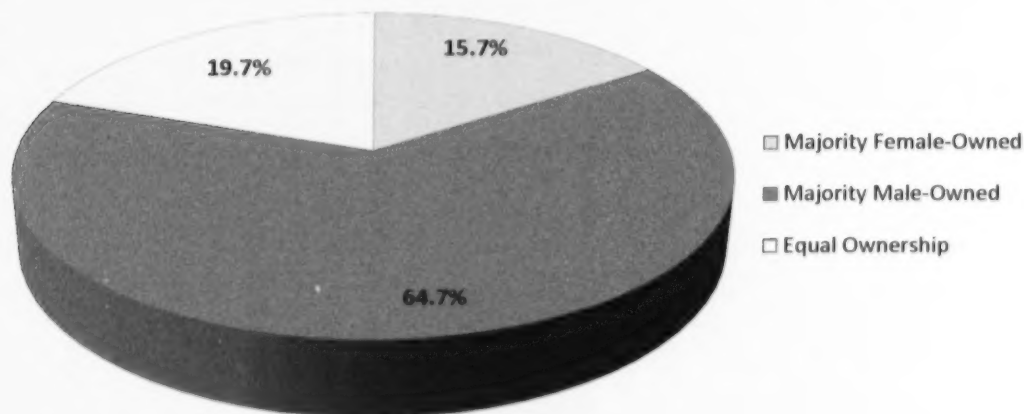
The most recent government statistics presented in Figure 2 show that only 15.7% of Canadian SMEs are majority women-owned, and 19.7% are equal owned. In comparison, 64.7% of SMEs are majority male-owned.³⁸ Moreover, 92.7% percent of majority female-owned SMEs had fewer than 20 employees.³⁹ As well, [Ms. Sheppard](#) shared that "in Canada nearly 47% of small or medium-sized enterprises have some form of female ownership." According to [Ms. Verschuren](#), "despite starting nearly half of all new businesses, women owned fewer than 15% of businesses with 100-plus employees in the U.S. and Canada."

38 Innovation, Science and Economic Development Canada, [Key Small Business Statistics - June 2016](#), 2016.

39 Government of Canada, [Majority Female-Owned Small and Medium-Sized Enterprises – May 2015: Special Edition of Key Small Business Statistics](#).



Figure 2 – Gender Profile of Canadian Small and Medium Business Ownership



Note: A majority female-owned small and medium enterprise (SME) is between 51% and 100% owned by one or more females. A majority male-owned SME is between 51% and 100% owned by one or more males. An equal ownership of SME presents a 50: 50 ownership between males and females, which may include married couples.

Source: Figure prepared using data obtained from Statistics Canada, [Survey on Financing and Growth of Small and Medium Enterprises, 2014](#); Industry Canada, [Majority Female-Owned Small and medium-Sized Enterprises, Special Edition: Key Small Business Statistics, May 2015, 2015](#); and Global Affairs Canada, Office of the Chief Economist, [Majority-Female Owned Exporting SMEs in Canada, 2016](#).

[Ms. Sheppard](#) explained that despite their representation in business, “women-owned businesses make up less than 5% of domestic and international suppliers to corporations and government.” According to an [NLOWE video](#), majority women-owned businesses contribute \$148 billion in economic activity in Canada per year. [Ms. Sheppard](#) emphasized that “tapping into the growth potential of women-owned businesses is an economic imperative, which is why ensuring that these businesses are fully engaged in the government supply chain is so important.” She explained that “[t]he Canadian Taskforce on Women's Business Growth estimates that a 20% increase in total revenues among majority female-owned enterprises will contribute an additional \$2 billion per year to the Canadian economy.” The impact, according to Ms. Sheppard, is that “[b]y not engaging [majority female-owned enterprises], government is missing out on innovation and value, and as a result small businesses do not grow.”

According to [Ms. Verschuren](#), member of the Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders, “[e]xtensive research proves that there is an economic advantage in female leadership in the workforce.” She highlighted that “investing in women entrepreneurs has found businesses observe 15% in additional profit when the share of women in leadership positions rises from zero to 30%. Companies with at least one female founder out-performed all male-founded teams by 63% over the past 10 years.” She added that “[s]everal studies, including those done by [Royal Bank of Canada] and the Centre for Women's Business Research found that increasing the number of women-owned small businesses in Canada could add \$198 billion to Canada's GDP.”

In its report, *Supporting and Growing Women-Owned Businesses*, the Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders identified a number of barriers for women businesses owners. According to [Ms. Verschuren](#) these barriers include: “access to growth capital, lack of access to talent, networks, and expertise, the pressure to choose between entrepreneurship and family obligations, and the persistent social and psychological biases.” [Ms. Verschuren](#) and [Ms. Allan](#) agreed, federal procurement programs can be used to address some of these barriers.

Access to financial capital is often a barrier for women entrepreneurs and women-owned businesses in Canada. [Dr. Abu-Hakima](#) commented that “there continues to be an absent venture capital market in this country, especially for women-owned businesses.” She noted that “only about 4% of all companies typically get venture-backed, and female ventures, sadly, get only about 0.1%.” She cited a report which found that “eight out of 10 women get rejected by banks in terms of financing, even though [women] run approximately 46% of the SMEs in [Canada].” On this subject, [Ms. Sheppard](#) noted that women business owners “often face significant challenges because they are more likely to be undercapitalized than their male counterparts.” [Ms. Verschuren](#) shared that “[i]n both Canada and the United States, firms with at least one female founder received less than 16% of all venture capital funding.” She noted that helping entrepreneurs scale up is one way that federal procurement contracts can alleviate this barrier. [Ms. Allan](#) explained that a long-term supply contract with the federal government or a large company can help SMEs get bank financing.

Regarding networking, [Ms. Sheppard](#) noted that “[w]omen business owners often do not have the necessary contacts or networks that typically lead to greater business access.” [She](#) shared that “[s]tatistics will show you that a male entrepreneur will fail at least three times. The business of a female entrepreneur sometimes will fail once and she'll give it up.” [Ms. Verschuren](#) emphasized that “[w]omen have a smaller pool of fellow entrepreneurs, technical talent, and informal advisers to tap as they start and scale companies. This makes it harder for women to get introduced to potential



customers, partners, and investors, and as a result [to grow] their companies." She added that, "there is such a small number of women in business today and finding that ability to network is challenging."

In particular, Ms. Verschuren and Ms. Allan highlighted the importance of mentorship and sponsorship. According to Ms. Allan, in its recommendations, the Council encourages women to network in a safe environment formed with men. This safe networking can allow them to build their network and access to more business. Ms. Verschuren added that the engagement of men is extraordinarily important to the discussion of increasing the participation of women in business.

5.2 Participating in Federal Procurement

Dr. Orser told the Committee that according to the University of Ottawa and PSPC joint study on SME participation, "female-owned firms were less likely to contract with the federal government compared to male-owned firms." She added that "[a]mong supplier SMEs, only 10% were primarily majority female-owned." According to Ms. Sheppard, "current procurement models are not inclusive, because the bidding process is not targeted to SMEs. The process is complex, time-consuming, often targeted to the same suppliers, and often consists of large bundled contracts for which small businesses may be able to complete part of the work but not the contract in its entirety."

The perception that women-owned businesses are often small and therefore lack capacity to participate in the federal procurement process can also be a challenge. According to Dr. Riding, a study by Rosa and Sylla at Statistics Canada showed "that women-owned firms are systematically smaller." He noted that "[w]e interpret from this that there's less scale available to apply." According to Ms. Sheppard, "there's often a perceived lack of SME capacity, capability, or track record, and therefore [women-owned businesses] are often perceived as a higher-risk option."

Consistent with the feedback from SMEs, some women-owned businesses consider federal procurement opportunities difficult to access. Ms. Anderson provided the Committee with some insights into the experiences of individual women-owned businesses gathered by WBE Canada. She explained that some women-owned businesses have tried to navigate the federal government tendering site for opportunities and have found few that are relevant. She noted, "The resources are there, but they're hard to find."

Some witnesses raised concerns that women-owned businesses are not well represented in the supply chain, particularly when it comes to subcontracting. Dr. Orser said, "We know that women do not fare well [in subcontracting]. Often they're brought

into contracts as subcontractors on the RFP, and then they fall off when the work is done. I think this is the kind of monitoring we need to deploy to ensure that we serve the mandate of whatever program emerges."

Ms. Sheppard urged the federal government to expand its supply chain to include more women-owned businesses. She suggested that "[m]aking changes to the current [federal] procurement processes would open the doors to female-owned businesses that may not have been able to bid on projects before." Ms. Anderson added that the "federal government should stretch their procurements to engage small business participation, complementing the roles of larger procurement." Further, Ms. Sheppard encouraged the federal government to "ensure that the procurement culture and strategies of government align with the growing diversity of the small business community and contribute to a healthy economic environment."

Ms. Sheppard recommended that, in order to build the capacity of women-owned businesses, the federal government "[d]evelop and implement a supplier diversity strategy that includes procedures, goals, targets, education, and monitoring." The government should also "[d]evelop policies and procedures that engage diverse suppliers. For instance, develop a policy stipulating that if three quotes are required, at least one of the potential vendors must be a female-owned business." Ms. Anderson agreed, noting that in modernizing procurement, "[t]he federal government can easily develop federal policy initiatives to develop bidders."

Ms. Allan told the Committee that targeted procurement programs are an important way for growth-oriented businesses to access capital. She explained that large contracts, like those offered by government, can serve as collateral which allow entrepreneurs to secure loans. Further, she suggested that a concierge program or program to help bring together businesses in federal government procurement can help the women business community.

5.3 Certifications

Ms. Anderson explained that WBE Canada "certif[ies] that a business is 51% owned, managed, and controlled by women. Once certified, these women are connected with buyers in both corporate and public sectors that are seeking diverse suppliers and innovative products and services. Beyond certification, we also work on education and training and capacity-building, but the focus is on that procurement lens."

Some witnesses shared that certification of majority women-owned businesses can be beneficial. According to Ms. Anderson, certification is also a door-opener to other markets, such as the U.S. where that certification is recognized. Dr. Abu-Hakima told the



Committee that her firm “certified as an international women-owned business this year.” She added that this certification will provide opportunities with more corporate customers, such as Walmart, Pfizer, Royal Bank of Canada and Toronto-Dominion Bank, since many have set-asides of 20% to 30% of their procurement for women.

Regarding the integrity of certifications, [Dr. Orser](#) noted that certification organizations like WBE Canada know their client base and that “they are certifying with deep dives, so there is ... little opportunity to window dress ownership profiles.” However, if the federal government were to rely on these certifications to target procurement participation of majority women-owned businesses, then the demand for certifications could be substantial. [Dr. Orser](#) suggested that chambers of commerce or another sort of network of agencies might be needed to meet this increased demand. According to [her](#), the “certification process should be opened up to organizations like the CFIB, which have a very strong retail/wholesale base and which would possibly qualify for contracts.” She recommended that there be more certifying bodies.

For the purposes of U.S. government procurement programs, the definition of a women-owned business is based on majority ownership and whether the project manager is a woman. According to [Mr. Cornelius](#), for “a contract, not only does 51% ownership have to be held by a woman but the project manager over that particular contract should represent the female gender.” While the U.S. system is based on self-certification, there is some verification. [Mr. Cornelius](#) shared that contracting officers have to do a site inspection and an evaluation of who they gave the small business contract to, and if it is a majority woman-owned business, the contracting officers must certify that they looked at the financial documentation and tax returns of the business.

According to [Dr. Orser](#), her study on the efficacy of the U.S. women-owned small business federal contracting program “found that when we controlled for size and sector, that is, we compared apples and apples, the U.S. certification program had no impact on bid frequency or bid success.” She added, “This is an important finding. It's a finding that suggests replication of the U.S. program is not in the best interests of Canadian business owners or taxpayers.”

[Dr. Orser](#) explained that “[t]he U.S. set-aside also illustrates that the design and execution of such a program requires strict certification protocols, monitoring, and reporting. For example, it took the [U.S.] Small Business Administration 20 years to reach the 5% procurement target for women-owned businesses, a target that was achieved only in 2016, under the Obama administration.” Further, “The U.S. experience suggests that to enhance Canadian contracting opportunities for small businesses, PSPC

executives must be held accountable, reporting on consequences for those agencies that do not meet designed targets."

In contrast, regarding metrics and the profile of businesses, Dr. Orser commented that "the tick-the-box 'majority female-owned' is a simplistic solution." She added that "the percentage of women in leadership roles is certainly something that could be considered." According to Dr. Orser looking at majority women-owned businesses "becomes problematic when the owner dilutes some of the ownership and brings equity capital into the firm." This, she explained, could punish growth-oriented women who may no longer own 51% of the business. Dr. Orser stated that, as a result, "the idea of multiple metrics makes sense." She commented that "[i]f we're building a brand new made-in-Canada product, we need not replicate. There are opportunities to recognize that as women dilute ownership in their firm with equity and they grow their firm, it would be to our loss to lose those businesses in the procurement process. Having perhaps a couple of indicators as opposed to this simplistic 51% ownership would be my recommendation."

Putting forward an alternative view, Mr. Kendrick stated, "My project manager in our single largest project at the moment is a woman. Recently, one of my staff in Ottawa was named one of the outstanding female engineers in Ontario by Professional Engineers Ontario. I fail to see how it would help them if we failed to win government contracts, and instead were replaced by women-owned businesses."

One approach suggested was to create a value proposition or weighting scheme. According to Ms. Sheppard, all things being equal, the federal government should award some extra points to women-owned businesses when evaluating federal procurement bids. Stephanie Fontaine, Vice-President of WBE Canada, added that points could be used to "encourage ... both the suppliers and the corporations that are doing the supplier diversity programs." Ms. Anderson echoed this view, stating "We need to make those who are already contracting with government aware of this goal of having a diversification of their supply chain. We need to enable them to recognize how to start it and how to implement it, and then reward them for doing it by giving them extra points on their procurement opportunity." The women business owners that she spoke to said that they "want additional points of value for being women-owned." As well, they wanted value attributed to "larger entities that [are] already doing business with women."



5.4 Establishing Targets and Set-Asides

In terms of establishing set-asides for majority women-owned businesses, Ms. Sheppard noted that there was some support for a 5% procurement set-aside program. However, some witnesses, such as NLOWE, WBE Canada and Dr. Orser, cautioned that the first step needed is to measure the current situation and to evaluate supplier capacity, so that a realistic target could be set. As explained by Ms. Sheppard, “[i]f only 1% of businesses can even bid on these contracts and you’re asking for a 5% spend, you might be setting yourself up for an unsuccessful project.” In some cases, she suggested that it is important for small businesses to partner with other SMEs in order to develop capacity.

Several witnesses highlighted that it is difficult to develop procurement policy without having gender-segregated data. According to Dr. Orser, Statistics Canada “has some of the best metrics in the world when it comes to measuring the profile of women-owned firms, but this information is not currently captured in any kind of contract.” She noted that “[Statistics Canada] uses majority or equal ownership, ... good metrics that other nations are copying to gauge what the profile of the founder is.” According to both Ms. Anderson and Dr. Orser, the federal government doesn’t have contract data that is gender-segregated. Ms. Sheppard encouraged the federal government to track procurement data and ensure it is gender-segregated. Dr. Orser shared that she is “working with PSPC to dig down into the data [to] do a more robust gender lens analysis and control for things such as size, sector, and age of firm, because these are important indicators of a firm’s viability.”

Along the same lines, Ms. Allan emphasized that the federal government “need[s] [a] strong baseline of current government procurement won by women-owned businesses, broken down, if possible, by industry sector and issuing department.” This, she added, could be used to chart the progress of any initiatives going forward.

The U.S. Small Business Administration is responsible for implementing and administering the Women-Owned Small Business (WOSB) Federal Contracting Program under section 8(m) of the *Small Business Act*, which came into effect on 4 February 2011. The WOSB program includes set-asides for women-owned small businesses in industries where they are either under-represented or substantially under-represented. There are 112 industry groups designated for women-owned small businesses and 21 industry groups designated for economically disadvantaged women-owned small businesses.⁴⁰ Of note, there are no limits on the dollar amounts for set-aside contracts under the WOSB program.

40 United States, Federal Register: Notices, Vol. 82, No. 195, 11 October 2017, p. 472278.

The WOSB program relies on self-certification of businesses as either a women-owned small business, or an economically disadvantaged women-owned small business. Businesses can also obtain third-party certification from one of four bodies, such as the U.S. Women's Chamber of Commerce or the Women's Business Enterprise National Council.⁴¹

To qualify as a women-owned small business, the business must meet the small business size standard:

- The business must be at least 51% unconditionally and directly owned and controlled by one or more women who are U.S. citizens.
- Women must manage the day-to-day operations.
- A woman must hold the highest officer position in the business.
- This woman must work at the business full-time during normal working hours; women must make the long-term decisions for the business.
- There is no minimum amount of time for the business to be operational.⁴²

To qualify as an economically disadvantaged women-owned small business, a business must meet the above requirements and its owners must have a personal net worth of less than US\$750,000, with certain exclusions; an average gross income of US\$350,000 or less; and assets with a fair market value of US\$6 million or less, with certain exclusions.⁴³

With respect to the U.S. targets and set-asides, Dr. Riding remarked that "the commitment the U.S. government made and made public with respect to the 23% and the 5% spends [is] a very powerful motivator." However, he noted that, "[w]hat we found, and indeed what the U.S. Government Accountability Office found, is that it wasn't policed." He explained that "[p]eople would declare themselves as women-owned businesses when in fact they weren't, because the government didn't set up a mechanism to check. In fact, the 5% goal was achieved mainly through contracts let outside the set-aside. Our finding that the set-aside wasn't effective has been echoed by a couple of other pieces of work, but it's not a question of set-aside versus no set-aside. It's also very much a question of how the set-aside is organized and monitored." On whether Canada should model the U.S. set-aside program, Dr. Orser cautioned that

41 U.S. Small Business Administration, *Women-Owned Small Business Federal Contracting program*.

42 Ibid.

43 Ibid.



there is risk in a self-identified certification program. Instead, she suggested that “Canadian taxpayers and small business owners would appreciate a more robust set-aside program that is monitored and that holds PSPC accountable to ... targets.”

As an alternative to a traditional set-aside, the federal government could set aside a category or area, as opposed to a percentage. Ms. Fontaine explained that instead of using a percentage, the government could set aside categories or areas that may be most readily suitable for engagement with majority women-owned businesses. She suggested that this could be in sectors where women businesses are already operating. For example, more women go into businesses that are service- or retail-related. Similarly, Dr. Orser suggested that the federal government could look to sectors where women business owners are well represented, such as professional services. She added that this could be done regionally, to be more conservative. The government could bring in SME suppliers to talk about those outcomes and targets. In her view, she has “not heard of an initiative to open up the conversation of what those metrics [or targets] should be.”

In its report, *Supporting and Growing Women-Owned Businesses*, the Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders recommends that in the next 12 months Canada implement a targeted procurement program for women, similar to the U.S. WOSB Federal Contract Program, with a target of reserving 5% of total federal contracts for women-owned small businesses. It also recommends that the programs in both countries be open to women from either country once the Canadian program has been implemented. As well, the Council recommends that one or both governments commit funding to support a third-party review to aggregate baseline data on existing organizations and women-owned business participation. Ms. Allan noted that the use of set asides was also highlighted in the February 2017 report of the Advisory Council on Economic Growth, *Unlocking Innovation to Drive Scale and Growth*.

Ms. Allan highlighted the federal government’s commitment in its 2018 budget to “set an objective of increasing the participation of women-owned small and medium-sized enterprises...in federal procurement so that they constitute at least 15[%] of SMEs supplying the Government of Canada.” She commented that “there is a big difference between awarding 15% of total nominal SME contracts and awarding 15% of the total available funds.” In her view, “the most effective way to effect change would be to create a set-aside reserve to award to women entrepreneurs based on a percentage of total available procurement funds.” She also remarked that the federal government could use the execution and implementation of a set-aside program to drive a reduction in the complexity of the procurement process.

5.5 Outreach and Communication

There is a need for mentorship and communication programs to assist women entrepreneurs and women-owned businesses. According to Ms. Sheppard, "it's important to have that question-and-answer accessibility and training piece because what's holding a lot of people back is that they're just afraid of [the procurement process]." Regarding training, she noted that webinars are a good way to reach majority women-owned businesses, and in particular, micro-businesses. The best way, according to her, is for government to collaborate with business organizations, such as NLOWE and WBE Canada.

According to Dr. Orser, "agencies that certify minority-owned and women-owned business play a critical role in building capacity through conferences, networks, and fostering B2B [business-to-business] relationships." In Dr. Riding's opinion, organizations such as WBE Canada effectively engage with women. He noted that "[t]hese organizations provide both early-stage funding to women, but more importantly provide a great deal of education and encouragement and sometimes, where needed, discouragement about building their businesses." In his view, these organizations, which are funded by the federal government, "could be a very effective way of starting to build competency and capacity even more so among women business owners." Ms. Sheppard shared a similar view and encouraged the government to "[d]evelop strategic relationships with supplier associations, such as NLOWE, to build and strengthen the supply database by including diverse suppliers." She added that "[t]hese associations can be used to help distribute bid notifications or connect government with potential suppliers."

Several witnesses emphasized the importance of a strong communications program. Dr. Orser promoted "[p]roactive outreach by the federal government and a really strong communication campaign" in order to bring more contractors to the door. By doing that, she reasoned, the federal government will increase the quality of its suppliers. Ms. Verschuren shared a similar view, noting that the government should use social media, direct intervention and outreach to the chambers of commerce to promote any program it develops for women-owned businesses.

Ms. Allan shared that companies like Accenture and General Motors provide mentorship opportunities through their supplier procurement programs to help smaller companies grow, which is an important part of a healthy supply chain.

Regarding outreach activities, Ms. Anderson told the Committee that "[t]he [City of Toronto] developed a diversity fair where they had their buyers come to meet with diverse suppliers ..., including women-owned businesses." She explained that "[t]hey did



this to create confidence that the businesses themselves are capable suppliers and to disprove the concept of ineligibility." In her view, "[t]he federal government needs [to do] the same." Ms. Sheppard encouraged the government to "offer programs for mentoring and supplier training to develop diverse vendors and build capacity so diverse-owned businesses learn how to improve their operations, their goods and services, and their approach to bidding on contracts." Paired with this, she encouraged the government to "[e]ducate procurement departments and purchasing decision-makers about the importance of supplier diversity."

5.6 Committee Observations and Recommendations

Women-owned businesses have the potential to contribute even more significantly to the Canadian economy. Some witnesses told the Committee that making federal procurement more inclusive for women entrepreneurs and women-owned businesses will have meaningful socio-economic benefits, increase innovation and achieve greater value for money in federal procurement contracts.

The federal government made a commitment in its 2018 budget to increase the participation rate of women-owned businesses in federal procurement from 10% to at least 15%, in order to reflect the current proportion of SMEs majority led by women entrepreneurs. The Committee members encourage the government to consider other strategies that will help increase the success of women-owned SMEs and to grow their representation.

Moreover, some witnesses told the Committee that the government needs to collect, analyze and track procurement data on a gender-segregated basis. This data should be used to design programs and establish contracting goals for women-owned businesses.

Consequently, the Committee recommends that:

Recommendation 28

The Government of Canada collect, evaluate and track gender-based data and diversity-based data for socially-disadvantaged groups for all federal procurement contracts.

Recommendation 29

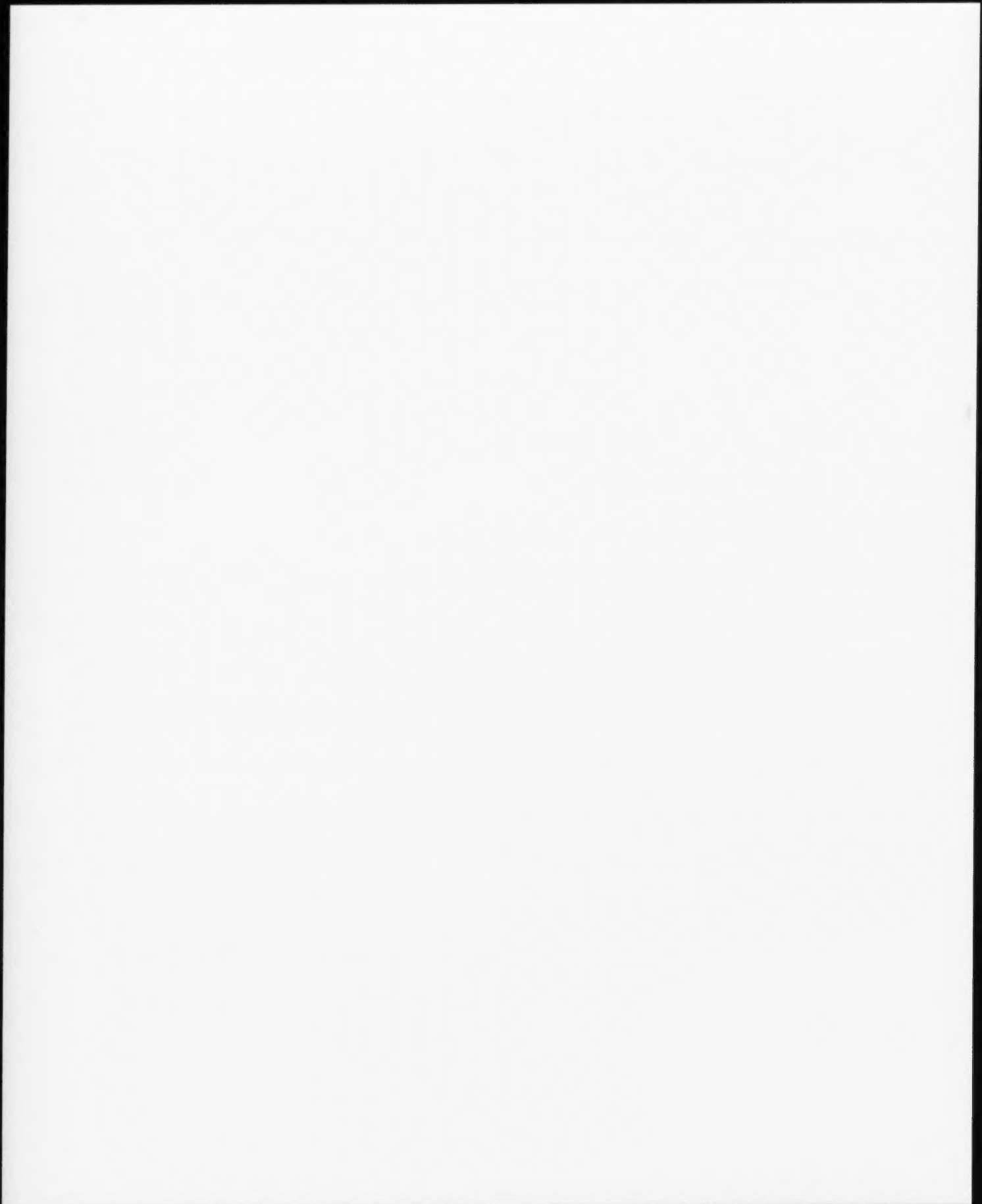
The Government of Canada develop procurement strategies, including simplifying its process, that will benefit women entrepreneurs and women-owned businesses, through consultation with those groups.

Recommendation 30

The Government of Canada examine the possibility of using a weighting scheme to award points to small and medium enterprises and women-owned businesses when awarding federal contracts.

Recommendation 31

The Government of Canada examine and learn lessons from the experience of suppliers using the Procurement Strategy for Aboriginal Business, as well as the successful practices in the United States, and consult with women-owned businesses when determining how these businesses will be certified.



CHAPTER 6: IMPROVING ACCESS FOR INDIGENOUS BUSINESSES

Indigenous economic development is crucial to increasing the socio-economic outcomes and self-determination of Indigenous peoples. The Procurement Strategy for Aboriginal Business is part of a suite of federal programming, which includes a number of initiatives to support Indigenous peoples to more fully participate in the Canadian economy.

Sheilagh Murphy,

Assistant Deputy Minister, Lands and Economic Development,
Indigenous and Northern Affairs Canada

The Treasury Board Contracting Policy contains many requirements for contracting with Indigenous businesses, such as those contained in modern treaties and in the Procurement Strategy for Aboriginal Business (PSAB). According to Ms. Murphy, federal government procurement contracts help Indigenous businesses develop new markets and expand their products and services.

Ms. Reza told the Committee that between 2009 and 2015, PSPC awarded 1,265 PSAB contracts to Indigenous businesses, with a total contract value of about \$500 million. She indicated that the highest-value contracts under the PSAB are typically in health services, construction, accommodation, office supplies, information technology equipment and software, and informatics professional services. She informed the Committee that during the 2014–2015 fiscal year alone, PSPC provided procurement contracts worth about \$178 million to Indigenous businesses under the PSAB and over \$25 million to Indigenous businesses outside the PSAB. She added that the total value of procurement contracts to Indigenous businesses has steadily increased over the years. However, Sean Willy, President and Chief Executive Officer of Des Nedhe Development, expressed disappointment that a very low percentage of total federal procurement contracts – 0.46%, from his calculations – had been allocated to Indigenous businesses over the last 10 years.



6.1 Indigenous Businesses in Canada

It is important that the federal government aims to increase the number of aboriginal firms participating within the procurement process, including those owned and operated by Indigenous women.

Patrick Cheechoo,

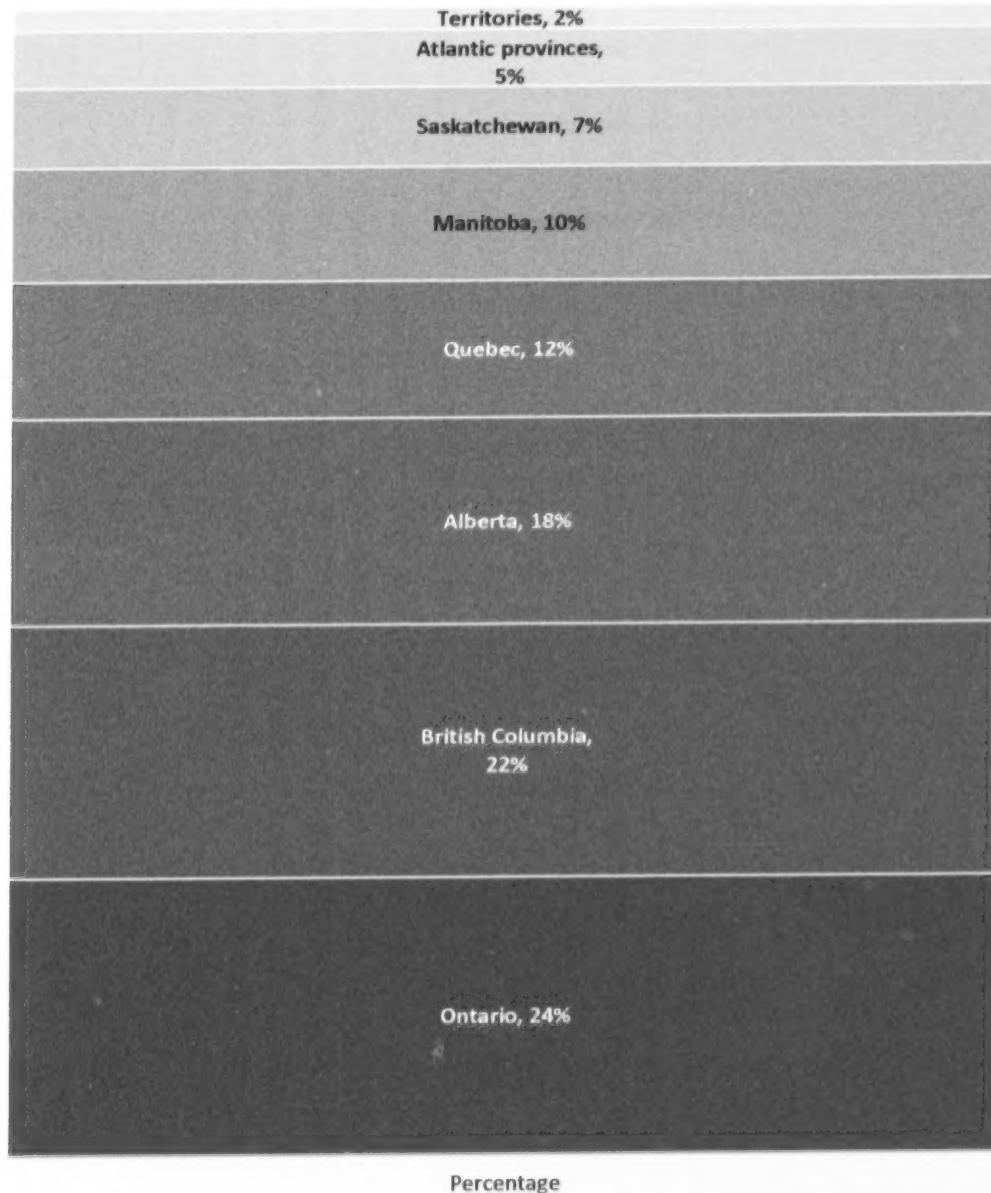
Director of Operations, Native Women's Association of Canada

Mr. Skudra informed the Committee that according to research CCAB conducted with TD Bank, there are 43,000 Indigenous businesses in Canada. He added that Indigenous businesses are booming in Canada and that in the last five years, there has been a 15% increase in the number of profitable Indigenous companies across the country. According to him, the Indigenous economy is worth over \$30 billion, including \$12 billion in the business sector alone, composed of privately-owned firms and community-owned corporations. Furthermore, Mr. Damm highlighted that the First Nations population is the fastest-growing in Canada and that more than 50% of the Indigenous population is under 25 years of age.

The regional distribution of self-employed Indigenous people in Canada as reported in the 2011 Census is illustrated in Figure 3. Self-employed Indigenous people are most likely to reside in Ontario, British Columbia and Alberta. In its report entitled *Promise and Prosperity: The 2016 Aboriginal Business Survey*, the CCAB highlighted that, compared to the total Indigenous population in each province, self-employed Indigenous people are over-represented in British Columbia and Alberta, whereas they are under-represented in Manitoba and Saskatchewan.⁴⁴

44 Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 12.

**Figure 3 – Regional Distribution of Self-Employed
Indigenous People in Canada, 2011**

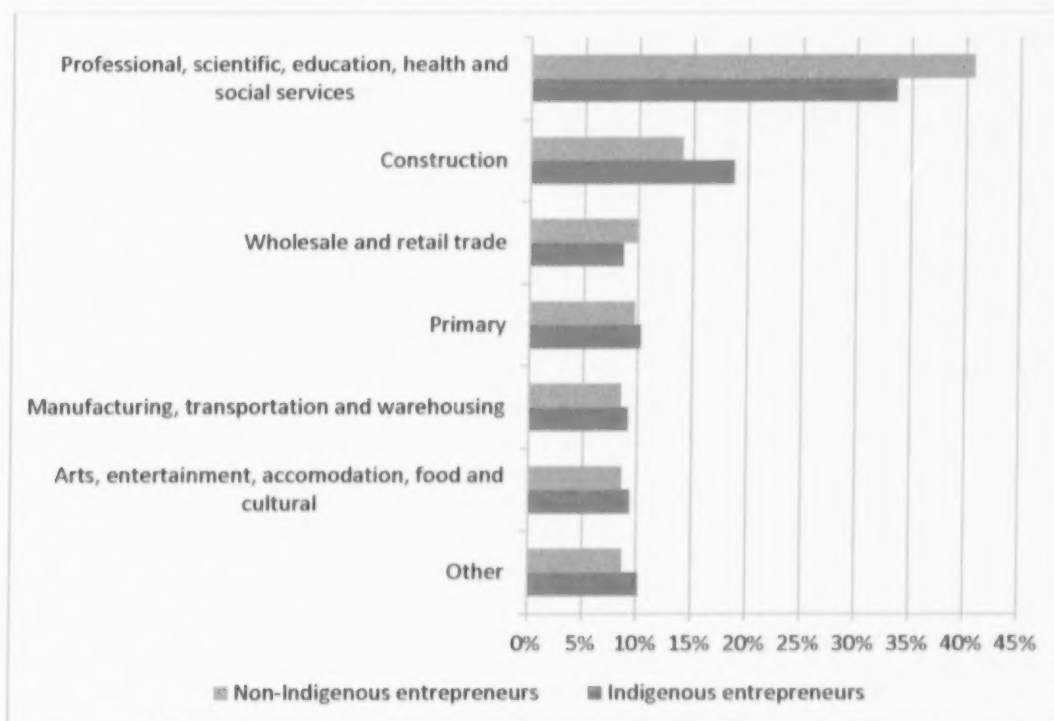


Source: Figure prepared using data obtained from Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 12.



Figure 4 compares the number of self-employed Indigenous people as a percentage of the total Indigenous population in various economic sectors and does the same for self-employed Canadians. It shows that the proportion of self-employed entrepreneurs among Indigenous people is lower than Canadian entrepreneurs in the professional, scientific, education, health and social services sector and slightly higher in the construction sector.

Figure 4 – Self-Employment Rates of Indigenous Entrepreneurs versus Non-Indigenous Entrepreneurs in Selected Industry Sectors in Canada, 2011



Source: Figure prepared using data obtained from Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 13.

Table 2 presents the results of the following CCAB survey question: "To what extent do any of the following present obstacles in growing your business over the next two years? Please use a scale from 1 to 5, where 1 means 'not at all' and 5 means 'a great deal.'"

Indigenous business owners rated attracting employees with the right skills and qualifications, followed by overall economic conditions, as their greatest obstacles to

short-term business growth. Around three in ten Indigenous business owners believed their growth would be impacted by access to equity or capital, government policies, rules and regulations, and access to financing.

Table 2 – Obstacles to Growth Among Indigenous Business Owners
in Canada, 2015

Obstacles	Percentage Reporting
Attracting employees with right skills and qualifications ^a	39%
Overall economic conditions	35%
Access to equity or capital	31%
Government policy, rules and regulations	31%
Retaining valued employees ^a	30%
Access to financing	29%
Competition	27%
Cost of doing business, such as input costs	24%
Reliable Internet access, telephone and other IT technologies	21%
Access to support for employee training and skills development ^a	21%
Other infrastructure such as electricity, water and roads	19%

Note: a. The question was asked of businesses with employees only.

Source: Table prepared using data obtained from Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 31.



6.2 Procurement Strategy for Aboriginal Business

The goal of the Procurement Strategy for Aboriginal Business is to help indigenous businesses gain experience, bid, and partner with Canada, and to increase the number of contracts that go to indigenous businesses so that they get a larger share of the federal contract offerings.

Sheilagh Murphy,

Assistant Deputy Minister, Lands and Economic Development,
Indigenous and Northern Affairs Canada

Ms. Renart mentioned that the PSAB “aims to foster aboriginal business development through the use of federal procurement contracts, while remaining consistent with international trade obligations.” This strategy came into effect in 1996 as a result of a partnership between INAC and PSPC that was established to address the fact that Indigenous businesses are under-represented among firms seeking and winning federal procurement contracts. In June 2009, the federal government announced the new Federal Framework for Aboriginal Economic Development along with an action plan designed to support its implementation, which included the PSAB.⁴⁵

The goal of the PSAB is to increase federal procurement from Indigenous-owned businesses by allowing federal departments and agencies to set aside procurement opportunities for these businesses. The policy comprises the four following components:

Mandatory set-asides: A mandatory set-aside applies to all federal contracts with a value greater than \$5,000 for goods or services delivered to a primarily Indigenous population.

Voluntary set-asides: Federal departments and agencies may elect to voluntarily set aside select procurement opportunities for Indigenous - owned businesses.

Joint ventures and partnerships: The PSAB provides a framework for Indigenous businesses to form joint ventures and partnerships with other Indigenous or non-Indigenous businesses and allows these partnerships to bid on opportunities that have been set aside.

45 Aboriginal Affairs and Northern Development Canada, *Evaluation of the Procurement Strategy for Aboriginal Businesses – Project Number: 1570-7/13057*, Final Report, June 2014, p. 2.

Use of Aboriginal criteria: In the qualification and awarding of prime contracts, all departments and agencies are encouraged to request Indigenous Business Sub-contracting Plans, either as a mandatory requirement or as rated evaluation criteria to ensure sufficient content from Indigenous suppliers.⁴⁶

All Indigenous businesses – sole proprietorships, limited companies, cooperatives, partnerships, and not-for-profit organizations – can participate in the PSAB as long as the following criteria apply:

- at least 51% of the firm is owned and controlled by Indigenous people; and
- at least one third of the employees are Indigenous, if the firm has six or more full-time staff.⁴⁷

In its report entitled *Promise and Prosperity: The 2016 Aboriginal Business Survey*, the CCAB noted that one in five Indigenous business owners had bid or had considered bidding on a PSAB set-aside, while three in ten had bid on federal government procurement contracts. This is an increase from the 2010 survey, where 20% of Indigenous business owners reported bidding on those contracts.⁴⁸

Several Indigenous representatives and business owners told the Committee that the PSAB is not meeting their needs. Mr. Derouard argued that the PSAB was created to support Indigenous businesses but that the Strategy failed to accomplish this. Mr. Damm commented that the PSAB is broken and that the set-asides are not working properly. Mr. LeClair argued that the PSAB does not go far enough and that it is very difficult to bid under the current system.

The Tribal Wi-Chi-Way-Win Capital Corporation (TWCC) recommended in its first brief to the Committee that the PSAB target population be expanded beyond communities where Indigenous people represent at least 80% of the population. In its second brief, TWCC proposed that Indigenous benefits “be included as an evaluated and scored component of all Government of Canada RFPs,” and asked for a “prequalification/verification system for Aboriginally owned companies to ensure integrity of the RFP process and to ensure economic benefits for the target economic groupings.”

46 Ibid., p. 4.

47 Indigenous and Northern Affairs Canada [INAC], *Procurement Strategy for Aboriginal Business – Booklet*.

48 Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 43.



In its [brief](#), the CCAB suggested that the federal government award points to bidders that are Progressive Aboriginal Relations (PAR) certified, which consists of an independent jury of Indigenous professionals that “evaluates companies on their relationships with Aboriginal businesses and communities in day to day operations.” According to CCAB, this would ensure that businesses demonstrate positive Indigenous engagement in their supply chain.

6.2.1 Governance and Interpretation of the Indigenous Strategy

Although all federal departments and agencies participate in the PSAB, the initiative is led by INAC under the authority of Treasury Board contract policy notices.⁴⁹ On 28 August 2017, the federal government announced the splitting of INAC into two new departments: a Department of Crown-Indigenous Relations and Northern Affairs, and a Department of Indigenous Services.⁵⁰

[Ms. Murphy](#) explained that INAC and PSPC collaborate on the application of the PSAB. INAC “takes on a certain portion of the PSAB and has expertise in order to work with aboriginal businesses and federal departments, but it’s done in partnership with PSPC.” She added that both departments jointly offer information sessions on the PSAB to federal departments and agencies. Despite the splitting of INAC, [she](#) indicated that it will not change the PSAB and the direction the INAC is taking regarding the strategy.

In response to a question from a Committee member, [Mr. LeClair](#) indicated that he doubts the PSAB should be led by INAC and suggested that PSPC and TBS be more involved and that a multi-ministerial approach be used for the administration of the strategy. Agreeing with this suggestion, [Mr. Skudra](#) said that such an approach would ensure that there are different voices at the table. Although [Mr. Willy](#) commented that having the PSAB under INAC puts a focus on Indigenous businesses, [he](#) indicated that having PSPC in charge of all procurements would be better, as the PSAB would not be hidden within INAC. [Mr. Derouard](#) highlighted that if the PSAB was within PSPC, all purchasing departments and agencies would know that they have to use the Strategy. He explained that the current disconnect with the use of the PSAB comes from the fact that purchasing officials do not care to use the strategy. [Bernd Christmas](#), Chief Executive Officer and General Counsel at Gitpo Storms Corporation, who testified as an individual, agreed with Mr. Derouard’s comment. [Mr. LeClair](#) suggested adding an accountability component to the PSAB.

49 INAC, *Procurement Strategy for Aboriginal Business (PSAB)*.

50 Justin Trudeau, Prime Minister of Canada, *New Ministers to support the renewed relationship with Indigenous Peoples*, News release, 28 August 2017.

Mr. Derouard said that there is a significant difference between what government officials tell Indigenous businesses about the PSAB and its execution. He also commented that he has noticed, over the last eight years,

a lack of willingness to use the program as the PSAB policy states. This has been an issue from the onset; it's not new. All the purchasing departments think they have a choice in dispersing the procurement. That's not the way the PSAB policy is written. They have to use it—it's mandatory—if they are procuring to communities that are 80% [Indigenous] populated or more.

Virginia Flood, Vice-President of Government Relations at Suncor Energy Inc., indicated that contracting is about how to engage and work with the communities to better understand their capabilities and how to build on them. She suggested a whole-of-government approach to Indigenous business procurement, rather than having the PSAB operate within a single department, particularly, since all departments and agencies have a certain level of engagement with Indigenous communities. She also cautioned the federal government in using a one-size-fits-all approach. She underscored that understanding the culture of Indigenous communities is essential in building relationships and partnerships. She proposed that the federal government increase direct person-to-person interaction with Indigenous businesses. In the same vein, Mr. Christmas suggested that the federal government create relationships with Indigenous communities and that public servants visit communities to develop those relationships.

In its first brief, TWCC asked that all federal departments and agencies “report to Parliament on their respective volumes of [mandatory] set-aside transactions so that evidence-based public policy responses can be instituted.”

Several witnesses, notably Indigenous representatives and business owners, raised concerns with government officials' interpretation of the PSAB. Mr. Derouard said that one of the biggest issues with the PSAB is that the personnel implementing the strategy have their “own interpretations of how to deliver it” and that the PSAB should not be subject to interpretation. Colin Salter, Legal Counsel at Tlicho Government, and Bertha Rabesca Zoe, Legal Counsel at Tlicho Government, believed that the PSAB was a good idea but nonetheless criticized its application. They explained that the Tlicho area benefitted from very few PSAB opportunities and questioned the rules surrounding mandatory requirements under the PSAB, as well as their interpretation by government officials. They suggested that the federal government ensure that the PSAB does not rely on departmental interpretation for its application. Mr. Skudra supported this suggestion.



Finally, Mr. Cheechoo questioned how often Indigenous businesses win federal contracts in open competition with non-Indigenous businesses and expressed concerns that voluntary set-aside policies might be open to interpretation.

6.2.2 Promoting the Indigenous Strategy

Government officials explained that the federal government devoted significant resources engaging with Indigenous businesses to inform them about the PSAB. Engagement efforts included outreach activities, business matching in Canadian communities and one-on-one supplier discussions.⁵¹ Ms. Murphy told the Committee that INAC participated with CCAB in a survey to identify training needs and gaps for Indigenous businesses that may inhibit the PSAB participation. She explained that in recent years, there has been an increase in the number of Indigenous businesses registering with the federal government and an increase in the number of businesses that have availed themselves of federal government procurement opportunities.

Mr. Gray indicated that OSME works with INAC and that they both coordinate their event planning and activities. He added that OSME, with its six regional offices, sets its own targets to engage with Indigenous communities across Canada through its Aboriginal engagement strategy. Ms. Reza indicated that “OSME is instrumental in outreach efforts to build capacity in Indigenous enterprises, and to provide information and tools on how to access federal procurement opportunities with the objective of bringing more Indigenous enterprises into the supply chain.” She added that Indigenous-specific events are organized to explicitly match businesses interested in partnering and that last year, OSME participated in more than 120 Indigenous events and reached more than 2,300 people or SMEs. OSME also partners with Indigenous organizations; for example, it collaborated with CCAB to deliver a national webinar on how to do business with the federal government.

Advocating for Indigenous women, Mr. Cheechoo suggested that targeted training was required to help Indigenous women structure their bids for federal procurement under the PSAB, along with targeted promotion and marketing of the PSAB aimed at Indigenous women. He added that his organization would be happy to help the federal government in its outreach activities. Mr. Damm advocated for active outreach and education on the set-aside program.

51 OGGO, *Evidence*, 1st Session, 42nd Parliament, 105th Meeting, 7 November 2017, 1132 (Sheilagh Murphy, Assistant Deputy Minister, Lands and Economic Development, INAC) and 1232 (Ms. Reza).

Mr. Card proposed the creation of an Indigenous procurement portal to promote the PSAB and inform Indigenous communities about procurement opportunities along with a help desk to answer suppliers' questions and help them navigate the federal procurement process.

6.2.3 Preventing Corporate Fronts

Ms. Murphy explained that Indigenous status is not required for Indigenous businesses to be recognized as such since that recognition is based on self-identification. However, she recognized that this self-identification can sometimes be a challenge even if INAC audits and verifies the information provided by the self-identified Indigenous businesses. Mohan Denetto, Director General of Economic and Business Opportunities of Lands and Economic Development at INAC, shared that, so far, four businesses have been disqualified after audits and verifications and he added that such disqualification was rather rare.

In a follow-up answer to a question from a Committee member, INAC explained that the PSAB compliance audit "verifies that the Aboriginal businesses, joint ventures or partnerships registered in the Aboriginal Business Directory under the [PSAB] meet the Ownership, Control, Aboriginal Employment and Aboriginal Content criteria where applicable."⁵² For PSAB set-aside requirements valued at or greater than \$2 million, a pre-award audit is mandatory, although such an audit can be conducted for requirements below \$2 million when a need is identified. Moreover, to verify if Indigenous businesses meet the ownership, control, employment and Indigenous content criteria, post-award audits are performed. Further, an audit for compliance can be conducted on a random basis. Finally, when a business fails an audit, INAC explains to the business the reasons for the finding of non-compliance and it may offer them assistance in developing a plan so that the business complies with the criteria. When Indigenous businesses fail an audit, and do not work with INAC to meet the eligibility requirements, only then are they removed from the Aboriginal Business Directory.

In its report *Promise and Prosperity: The 2016 Aboriginal Business Survey*, the CCAB indicated that one concern with the PSAB is that partnerships may sometimes be established only to satisfy the criteria for set-asides and thus take advantage of an Indigenous business. Nevertheless, 72% of Indigenous business owners experienced with the PSAB set-asides agreed that "the criteria are a reasonable way to prove a

52 INAC, Follow Up Request from the Standing Committee on Government Operations and Estimates 7 November 2017, p. 1-2 [correspondence with OGGO, 14 February 2018].



business is Aboriginal.”⁵³ Moreover, “[w]hen asked how and why they think the criteria should be changed, ... business owners dissatisfied with the criteria most frequently recommend better monitoring to ensure Aboriginal Ownership/employment criteria is truly met (41%) and not held by a silent partner or contracted out once the bid is won.”⁵⁴

Some Indigenous representatives commented on companies that do not meet the criteria of Indigenous ownership. Mr. LeClair shared that when the PSAB was first introduced, “there were a lot of 51% shell companies that were Indigenous in name only.” Mr. Willy explained that some Indigenous partnerships or alliances are only created for specific government contracts and are dissolved upon the completion of the contracts. He highlighted that the “creation of these corporate fronts takes advantage of set-aside opportunities, yet does not build any substantial capacity, training, or sustainable business for the Indigenous proponent.” Mr. Damm indicated that there are not as many shell companies as there used to be due to the INAC registration system of First Nations and Indigenous businesses.

In response to a question from a Committee member, Mr. Cornelius explained that the U.S. 8(a) program (discussed in section 5.4) requires that woman-owned businesses be 51% owned by a woman and that the project manager over the life of a government procurement contract be a woman. Despite this, he mentioned that if a business chooses to subcontract to a male-owned business or to hire a male manager, the U.S. government does not “police” that. He added that there is low risk of corporate fronts, but that should they identify one, they report it to their Department of Justice and terminate the procurement contract. Furthermore, Mr. Parker indicated that, in his experience, other small businesses tend to bring corporate fronts to the attention of the contracting officer.

Some Indigenous business owners and representatives suggested changing how Indigenous businesses were identified. Mr. Christmas proposed that an official of the PSAB validate Indigenous businesses and classify them according to their type of business. Ms. Rabesca Zoe advocated for stricter guidelines surrounding the Indigenous participation components in the RFPs. Mr. Willy suggested preventing and halting the practice of corporate fronts through compliance audits from Consulting and Audit Canada throughout the life of the contract, which Mr. Christmas fully supported. CCAB suggested in its brief that the federal government only recognize and award points to Indigenous businesses certified by a third party, non-governmental organization such as

53 Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, p. 44.

54 Ibid., p. 45.

CCAB. Josh Riley, Manager of Innovation and Entrepreneurship at CCAB, indicated that such a certification by CCAB would be a way for the federal government to manage risk, and it would help Indigenous businesses market themselves for procurement opportunities.

Finally, in response to a question from a Committee member, both Mr. Cheechoo and Howard McIntyre, Vice-President of Supply Chain and Field Logistics at Suncor Energy Inc., said that it is as important to support Indigenous business owners in employing non-Indigenous workers as it is to support non-Indigenous businesses who wish to employ Indigenous workers. Mr. McIntyre added that Indigenous communities often obtain subcontracts from major companies and learn the ropes before they start their own businesses.

6.2.4 Supporting Small and Medium Indigenous and Women-Owned Indigenous Businesses

There has been some great work done to support Indigenous businesses. You'll see single years where there's \$60 million or \$80 million or \$100 million being done between the Government of Canada and Indigenous businesses.... procuring goods and services from aboriginal companies gets directly to small business owners and SME business owners from coast to coast to coast.

Max Skudra,
Director, Research and Government Relations,
Canadian Council for Aboriginal Business

Ms. Murphy noted that through its data analysis, INAC has noticed that larger Indigenous businesses tend to participate more in the PSAB than SMEs. She reassured the Committee that her department has identified that gap and is now working with communities and its partners to find ways to close it. Ms. Reza explained that PSPC is "working very closely with the client departments to review their procurement strategies and to look actively for opportunities where [it] can bring in the socio-economic objectives of Indigenous procurement."

In response to a question from a Committee member, Ms. Murphy indicated that INAC does gender-based analysis on Indigenous businesses and the department examines how these businesses "compare with the broader workforce and business workforce." According to her, the number of women entrepreneurs is growing. However, she



mentioned that INAC has not done gender-based analysis on how the PSAB affects Indigenous businesses that are women-owned versus male-owned.

Mr. Damm argued that sometimes Indigenous businesses are “scrutinized more as First Nation companies because there's an expectation that [they are] not mature enough to deliver the work.” Mr. Willy proposed the creation of mechanisms to ensure sound capacity and capability development of Indigenous businesses so that they compete in an open market. Mr. Christmas supported this suggestion.

Mr. LeClair and Mr. Card advocated for the inclusion of minimum Indigenous participation requirements in the Crown's RFPs, as part of an overall Indigenous benefits strategy. They argued that such requirements would lead to targeted procurement, which would provide business and employment opportunities and contribute to broad social development objectives to Indigenous communities.⁵⁵ They also suggested that PSPC post in advance procurement opportunities and allow Indigenous businesses to submit a compliant bid.⁵⁶

Mr. Cheechoo explained that his association's research, partnerships and networking “have revealed that Indigenous women's businesses experience significant barriers to development and expansion. These barriers are relevant for Indigenous women who wish to access procurement contracts with government departments.” He said that some of these barriers are barriers to financing. He added that the fact that some departments and agencies only accept electronic bids limits the participation of some smaller businesses located in remote areas that do not have access to broadband Internet. Mr. McIntyre told the Committee that Suncor adjusts the administration of its bids to suit the targeted community, which may mean accepting paper bids. Mr. Cheechoo asked the federal government to adopt a larger strategic approach to supporting Indigenous women's businesses (from conception to implementation) and ensure that these businesses can access the benefits of the PSAB.

Mr. McIntyre responded to a Committee member's question by stating that there are not enough women-owned Indigenous businesses and that only a very small proportion of the businesses with which Suncor partners are owned or managed by Indigenous women.

Finally, Mr. Denetto indicated that the PSAB is one tool in the tool kit for promoting and supporting Indigenous businesses and reassured the Committee that INAC also works on

55 OGGO, *Evidence*, 1st Session, 42nd Parliament, 128th Meeting, 26 April 2018, (Marc LeClair, Special Advisor, Métis National Council, and Brian Card, Bilateral Coordinator, Métis National Council).

56 Ibid.

other initiatives outside the PSAB to generally support Indigenous businesses to get into the marketplace and bid on procurement opportunities.

6.2.5 Set-Asides and the Establishment of Targets and Goals

[S]et-asides are important because they can be great door-openers. They can provide quicker procurement process timelines. They give Indigenous companies the opportunity to bid on larger procurements that we may not normally have exposure to. This encourages Indigenous and non-Indigenous companies to partner.

Sam Damm,
President, FoxWise Technologies Inc.

Ms. Reza explained that when a contract is set aside for Indigenous businesses under the PSAB, it means that only Indigenous businesses registered with INAC in the Aboriginal Business Directory can bid. Client departments and agencies also have the responsibility to use the PSAB, where applicable, whereas PSPC helps client departments and agencies identify and define Indigenous opportunities in their business requirements or in their scope of work.

Government officials provided data on Indigenous set-asides. Ms. Reza explained that in fiscal year 2016–2017, PSPC managed set-asides for Indigenous business contracts with an approximate value of \$112 million. Ms. Murphy said that in 2014, the value of Indigenous set-asides reached \$227 million, which represents an increase of 300% since 2009. She explained that INAC achieved this increase through target setting in the department and through work with other key departments, including PSPC and Innovation, Science and Economic Development Canada. She added that since the creation of the PSAB in 1996, Indigenous businesses have obtained contracts with the federal government worth over \$1 billion in set-asides. From 2012 to 2014, the number of Indigenous businesses that won contracts not set aside under the PSAB increased from 153 to 347. She added that set-asides represent a small percentage of the government's total procurement.

Indigenous representatives and business owners commented on set-asides within the PSAB. Mr. Damm argued that the mandatory set-asides are not followed in Canada, unlike in the U.S. where the set-asides are all mandatory. Mr. Cheechoo believed that voluntary set-asides are not sufficiently used by federal departments and agencies. Echoing that comment, Mr. LeClair said that voluntary set-asides need to be promoted so that federal organizations use them more often.



Recognizing the importance of set-asides, Mr. Damm shared his view that the set-aside component for Indigenous businesses is an afterthought and was much stronger 10 years ago when every department and agency had a PSAB performance coordinator and the federal government was engaging in a lot of trade shows and outreach activities. He questioned the accuracy of the reporting on set-aside success and asked if the reporting is based on set-aside standing offers and supply arrangements awarded, or on the amount of revenue generated through the set-aside procurement contracts. He advocated for an increase in the number of set-asides. He also suggested the federal government set a threshold under which set-asides must be considered first. Mr. Skudra shared that the application of the set-asides for Indigenous businesses is a little more conservative than it could be and proposed to widen its application.

In response to a question from a Committee member about set-aside targets, Susan Targett, Executive Vice-President of Corporate at Seven Generations Energy Ltd., noted that targets need to have some flexibility as the number of contracts given to Indigenous businesses is dependent on activity levels. She added that "a hard and fast number that doesn't take into account other economic considerations ... may be a challenge for corporations to live up to."

Mr. Willy recommended making set-asides for Indigenous businesses mandatory among departments and agencies. He believed these set-asides should increase annually to reflect the Indigenous population growth. He added that there should be consequences for not reaching the set-aside thresholds. He proposed a 10% target of all government procurement for Indigenous set-asides by 2023 and Mr. Christmas fully supported that suggestion.

Mr. Cheechoo suggested creating set-asides for women-owned Indigenous businesses and establishing multi-year commitments to purchase their goods and services. In its second brief, TWCC proposed "[s]etting mandatory PSAB volumes as either a percentage of overall federal procurement totals or overall monetary values of federal procurement activity."

6.2.5.1 Indigenous Procurement Policies and Targets in Other Jurisdictions

As previously explained, the U.S. has established a number of main contracting procurement goals; namely, that at least 23% of all federal government contracting dollars should be awarded to small businesses, and of this target, that 5% be awarded to small disadvantaged businesses.

Mr. Cornelius said that a small disadvantaged business may be a minority business or economically disadvantaged business "that doesn't have the means, expertise, exposure, or the revenues necessary to be at the same level playing field as most prominent small businesses."

The 8(a) Business Development Program (from the name of the provision in the U.S. Small Business Act) was created by the U.S. Small Business Administration in order to help small, disadvantaged businesses compete in the marketplace. Small disadvantaged businesses that are owned or controlled at least 51% by socially and economically disadvantaged American individuals, by birth or naturalization, can participate in the program for a total of nine years, comprising a four-year developmental stage and a five-year transition stage.

To participate in the program, individuals must either have a social or an economic disadvantage. Socially disadvantaged individuals include Native Americans, Black Americans, Hispanic Americans, Asian Pacific Americans, and Subcontinent Asian American, while economically disadvantaged individuals must have assets not exceeding US\$4 million, including personal income not exceeding US\$250,000, averaged over three years, and an adjusted net worth of less than US\$250,000. The program supports both small and Indigenous businesses as classified small businesses according to the North American Industry Classification System standards.

The 8(a) Business Development Program includes these components:

- sole-source opportunities up to a maximum of US\$4 million for goods and services and US\$7 million for manufacturing per participant. Moreover, each participant is limited to receive up to a maximum of US\$100 million in sole-source contracts;
- joint-venturing, which allows eligible firms to form joint ventures and teams to bid on federal contracts;
- a mentor-protégé program, through which firms can learn from more experienced businesses;
- specialized business training, counselling, marketing assistance and high-level executive development; and
- access to surplus government property and supplies, Small Business Administration-guaranteed loans, and bonding assistance for being involved in the program.



Mr. Cornelius explained that the goal of the 8(a) program is to “use contracts within the federal government to entice and build ... small [disadvantaged] businesses through exchange.” He added that a significant number of businesses that participated in the program graduated early because they exceeded the threshold of net worth and were therefore no longer considered socially or economically disadvantaged.

Mr. Riley pointed out that the Australian government established an Indigenous procurement policy in 2015. Under the policy, a targeted number of contracts must be awarded to Indigenous businesses, and that target is 3% of all domestic Commonwealth procurement starting in fiscal year 2019–2020. The Australian policy also includes a mandatory set-aside program under which departments must first consider Indigenous businesses for all remote area contracts and all domestic contracts valued between A\$80,000 and A\$200,000. Finally, for contracts valued above A\$7.5 million, there is a minimum Indigenous participation requirement: under the contract-based requirement, contracts must achieve at least 4% of Indigenous employment or supplier use, and under the organizational-based requirement, the business that won the contract must achieve at least 3% of Indigenous employment or supplier use. According to Mr. Willy, the Australian policy has had great success and surpassed all targets, with spending on Indigenous businesses increasing from A\$6.2 million to A\$284 million; however, he did not mention the timeframe of this increase.

Mr. Salter suggested that the federal government set measurable goals about the expected impact of the PSAB similar to those the Australian government established in its Indigenous procurement policy. Mr. Skudra fully endorsed this suggestion.

Mr. Willy pointed to SaskPower, a Saskatchewan Crown corporation, as an example of a corporation that introduced an Indigenous procurement policy with procurement targets. He mentioned that the established targets were not only reached and exceeded, but had increased annually. In 2015, the annual target was to spend 1.5% of procurement on Indigenous procurement and that target reached 5.9% in 2016.

Mr. LeClair explained the importance of including minimum Indigenous participation requirement in contracts with suppliers. He gave the example of Manitoba Hydro that put in place a 15 % minimum Indigenous participation requirement so that suppliers had to subcontract or hire Indigenous businesses or people for at least 15 % of the overall value of their respective contracts. Furthermore, Manitoba Hydro imposed penalties on suppliers that did not meet that requirement.

6.2.6 Partnerships and Joint Ventures

Ms. Reza told the Committee that the PSAB allows the inclusion of Indigenous participation in the procurements of non-Indigenous prime contractors. For example, client departments and agencies can decide to reserve a portion of subcontracts associated with a project to Indigenous businesses or to give additional evaluation points to the bid of contractors who commit to hire Indigenous suppliers and subcontractors.

Government officials said that PSPC and INAC encourage Indigenous businesses to create joint ventures with other Indigenous and non-Indigenous businesses and to bid on federal procurement contracts.⁵⁷ However, to be eligible under the PSAB, at least 51% of the joint venture must be owned and controlled by an Indigenous business or several Indigenous businesses, and it must be demonstrated that 33% of the value of the work performed is by the Indigenous business or businesses.

Indigenous representatives proposed ideas to improve joint ventures. Mr. Skudra suggested that the federal government provide incentives to increase partnerships between Indigenous businesses and private companies. As for Indigenous women, Mr. Cheechoo advocated rewarding joint ventures involving Indigenous women as employees or entrepreneurs through the bidding evaluation process.

Mr. Christmas informed the Committee of the existence of the National Minority Supplier Development Council procurement plan in the U.S., under which “any entity that gets government funding must create a preferred Native American minority supplier opportunity.” He suggested that the federal government develop a similar program.

57 OGGO, *Evidence*, 1st Session, 42nd Parliament, 106th Meeting, 7 November 2017, 1111 (Ms. Reza) and 1129 (Ms. Murphy).



6.2.6.1 Lessons from the Oil and Gas Sector

I can tell you that aboriginal businesses are a major opportunity across the country, for us, for you, and for other companies. They provide a broad diversity of products and services, excellent quality, with very good pricing, efficiency, and safety records. There is no way that Suncor would be as successful as we are today without these crucial business relationships.

Howard McIntyre,
Vice-President, Supply Chain and Field Logistics,
Suncor Energy Inc.

Ms. Targett explained that Seven Generations Energy Ltd. is very active in the communities where it has activities through partnerships and relationship building, including with First Nations. She said that her company has worked on developing Indigenous businesses. For example, Seven Generations Energy worked to advance the capacity and reputation of an Indigenous logging company that was consistently losing bids. She mentioned that in the last three years, her company provided on average \$32 million annually in contracts to about 15 Indigenous businesses within five First Nations. She added that Seven Generations Energy has been working with First Nation communities for more than nine years on education, training and mentorship. Finally, she encouraged the federal government to provide lower interest rate loans to Indigenous businesses.

Mr. Skudra indicated that three oil and gas companies provide contracts worth approximately \$1 billion a year to Indigenous businesses – Imperial Oil Limited (\$220 million), Syncrude Canada Ltd. (\$300 million) and Suncor Energy Inc. (\$400 million). He underscored that this is much more than what is being done nationally by the PSAB and reminded the Committee that the federal government is the largest single purchaser of goods and services in Canada. Mr. LeClair added that these companies developed a progressive Aboriginal relations program to develop relationships and partnerships with Indigenous communities and businesses.

Ms. Flood shared that her company launched in 2016 its first social goal, which “focuses on strengthening relationships so that aboriginal peoples can play a larger role in how energy is developed from project conception through to reclamation.” Mr. McIntyre told the Committee that in 2017, Suncor Energy spent \$521 million on goods and services from 197 Indigenous businesses and suppliers and that since 1999, it has spent over \$4 billion. He added that his company wishes to build on these successful relationships

and “broaden it across business lines so that more aboriginal entrepreneurs and communities have the opportunity to participate in and benefit from [Suncor’s] operations.” He also shared with the Committee six lessons the company has learnt and now applies in order to build better relationships with Indigenous businesses:

- It ingrains Indigenous commerce into the company’s culture and ensure that employees have Indigenous awareness training as a baseline by developing processes, policies and metrics to make it accountable and to measure progress.
- It develops joint business development plans, which are focus on the long-term and help Indigenous communities direct their efforts and identify new opportunities.
- It diversifies Indigenous procurement contracts by working with each supply chain category and by looking for opportunities for Indigenous businesses.
- It invests in resources to develop its business line. For example, the company evaluated its downstream operations to analyze where there are Indigenous opportunities within the company’s operations contracted work.
- It develops a sustainable supply chain by working with its contractors and suppliers to promote increased Indigenous participation in Indigenous and non-Indigenous companies.
- It works with industry associations, such as the Canadian Association of Petroleum Producers, the Mining Association of Canada, and the Canadian Chamber of Commerce, and encourages them to build similar relations and partnerships with Indigenous communities.

Mr. McIntyre advised the federal government to identify success stories and to try to replicate them. He added that the federal government should be honest and transparent in explaining why businesses were unsuccessful in winning contact bids so that these businesses can learn from their experience and improve.

Mr. LeClair indicated that Enbridge has some 15 joint ventures with First Nations and Métis and that the Métis in Manitoba signed an eight-year agreement with Enbridge.

However, Mr. Christmas pointed out that partnerships between Indigenous communities and oil and gas companies started after a legal challenge. For example, he said that his



community “took on the National Energy Board and caused Sable Gas and the Maritimes [and Northeast] Pipeline Company to change how it did business.” On that subject, Mr. Willy commented that those large companies partner with Indigenous business because they are legally mandated to do it and then realize that this is good corporate responsibility.

6.2.7 Evaluation of the Indigenous Strategy and Data on Indigenous Businesses

Ms. Murphy said that INAC conducted an internal evaluation of the PSAB in 2014 and found that “the strategy was aligned with government priorities, and that it was relevant, efficient and economical, with good performance. However, it also highlighted a number of issues that need to be addressed.”

In June 2014, INAC released a report on the evaluation of the PSAB entitled Evaluation of the Procurement Strategy for Aboriginal Businesses – Project Number: 1570-7/13057, which covered the period from 2007–2008 to 2012–2013. The report contained the following four recommendations to INAC:

- Develop an enhanced approach to the PSAB that is tailored to the different needs of different types of business, including a stronger focus on direct and regional training to support newer and smaller Aboriginal firms to navigate the increasingly complex and competitive procurement environment;
- Work with Public Works and Government Services Canada to ensure ongoing performance data allows for a complete capture of data on individual businesses winning procurement contracts by value and type both for set-asides and incidental contracts;
- Develop better accountability mechanisms for the accurate capture of whether or not bidders qualify as Aboriginal; and
- As part of the promotion of PSAB, work with contracting authorities to ensure the best likelihood of Aboriginal business success, including promoting the most appropriate application of the 25-day posting option.

Ms. Murphy said that PSAB’s evaluation found that the Strategy generally benefits larger and more established firms. It recommended that the Strategy be tailored to meet the needs of all Indigenous businesses through regional training and by working directly with these businesses. She told the Committee that INAC “will continue to address the

findings of this evaluation as part of the government's current procurement modernization agenda." She added that the Department of Indigenous Services is "undertaking its own review of the [PSAB] to leverage and enhance procurement policies, guidelines, and mechanisms to maximize the participation and benefit of Indigenous people, businesses, and communities from federal programs, expenditures, and investments." Finally, she said that in early 2018, INAC will review the PSAB with the participation of other federal departments and agencies and external stakeholders and will complete an options paper in spring 2018 for policy consideration.

Mr. LeClair argued that the PSAB should be audited by an external body instead of the department responsible for that Strategy.

Regarding data on Indigenous businesses, Ms. Murphy told the Committee that INAC has some data on the number of Indigenous businesses winning federal contracts not set aside under the PSAB. However, she said that the data are not "as comprehensive as [they] could be" and that "[t]hrough the procurement modernization agenda and open data strategy, the quality and scope of data available on the [PSAB] will improve." She added that INAC will better monitor and measure the impact of federal Indigenous procurement initiatives through improved performance measurements. She pointed out that the department is challenged by the fact that businesses do not always register under the same name, which makes it difficult to track the activity of Indigenous businesses. This is why the department would like to move to using a number to identify businesses. Finally, she explained that part of the department's modernization plans includes improving data collection.

Mr. Wright articulated that PSPC is working with ESDC and Crown-Indigenous Relations and Northern Affairs "to develop an integrated Indigenous participation framework that aligns with the ongoing review of PSAB and the Aboriginal Skills and Employment Training Strategy, and supports the government's broader procurement modernization agenda." They plan to consult Indigenous organizations, including CCAB, to develop that Indigenous participation framework.

Moreover, in a follow-up answer to a question from a Committee member, INAC that explained it is conducting an economic impact study in partnership with Statistics Canada:

to evaluate the broader economic impacts of the Procurement Strategy for Aboriginal Business (PSAB). The study will use the Canadian Input-Output Model, which measures the detailed industrial impacts of an input, such as [the PSAB] set-asides, on outputs such as Gross Domestic Product, employment, industry output, commodity output and jobs sustained. It is expected that the economic impact study will provide additional insight into leveraging effect of the PSAB and how it creates value for Indigenous



communities. It should be noted that a 2013 pilot study using the same model, did not record economic impacts in all areas.⁵⁸

In the follow-up letter, INAC also indicated that the results of the economic impact study will be provided to the Committee as soon as it is completed and that the completion date was expected to be 31 March 2018. At the time of writing this report, the Committee had not received the results.

In a response to a question from a Committee member, Mr. Denetto said that INAC does not track the economic benefits from the awarded contracts, “but it's definitely something [it] need[s] to look at in terms of improving [its] dataset and improving the data [it] do[es] gather to assess the impacts of the [PSAB].” However, he added that INAC has data on some of the direct impacts of the PSAB such as the number of local hires.

Mr. Cheechoo expressed the view that the federal government should establish an evaluation process to monitor and measure the successes of Indigenous women-owned businesses with federal procurement contracts. This evaluation process could also measure the number of Indigenous women-owned businesses that have won federal contracts versus the number that have made bids.

6.3 Large-Scale Procurements

Today one of the biggest and most successful economic development initiatives in Canada is excluding the Indigenous population of the country. [Defence sector] investment and retooling of Canada's federal procurement system has a tremendous upside for Canada and Indigenous peoples if done correctly. It is key that we get this right, as it will add value to Canadians from coast to coast to coast.

Sean Willy,

President and Chief Executive Officer, Des Nedhe Development

As for large-scale procurements, Ms. Murphy explained that INAC has had success in increasing the number of opportunities available to Indigenous businesses, including in the areas of defence procurement and health systems. She said that most Indigenous businesses do not have sufficient capacity to win large-scale contracts; however, she added that the federal government requires prime contractors to provide subcontracting to Indigenous businesses or employment opportunities to Indigenous people. She

58 INAC, Follow Up Request from the Standing Committee on Government Operations and Estimates 7 November 2017, pp. 1-2 [correspondence with OGGO, 14 February 2018].

explained that through these opportunities, Indigenous businesses benefit from the creation of partnerships with industry leaders.

Ms. Murphy told the Committee that the National Shipbuilding Strategy (NSS) was a good example of supporting Indigenous businesses through large procurement contracts. Through the NSS, INAC worked with the two prime shipyard contractors – Irving Shipbuilding Inc. and Seaspan – to promote Indigenous businesses. She indicated that through the NSS, a number of Indigenous businesses successfully entered the shipbuilding supply chain. She also explained that a working group with Indigenous membership looks for long-term job opportunities in large-scale procurement contracts, adding that ESDC is involved so that potential workers receive the skills training and development they need to take advantage of those opportunities. Ms. Reza added that Canadian shipyards have trained up to 1,500 Indigenous individuals as ironworkers and sheet metal fabricators.

Furthermore, Ms. Reza provided the following examples of large-scale procurements awarded to Indigenous businesses:

- Centre Block Rehabilitation Project, for which two professional services contracts were awarded to Indigenous businesses in March 2016 – \$750,000 to the Mobile Resource Group Inc. for the provision of real property management support services, and \$345,000 to the Naut'sa mawt Resources Group for the provision of leadership development services;
- PSPC air carrier agreements valued at approximately \$10 million in fiscal year 2016–2017 with Indigenous-owned airlines, notably First Air, Canadian North, Wasaya Airways and Yukon Air North;
- Canada Student Loans Program, which includes voluntary set-asides in which the prime contractor selected chose the TWCC to manage the customer contact centres for the administration of the program; and,
- Esquimalt graving dock remediation project valued at \$28 million, for which the Indigenous business Malahat Nation and the non-Indigenous business Quantum Murray partnered together in a joint venture.

Some witnesses expressed disappointment in the fact that there was no Indigenous requirement in the shipbuilding contracts awarded in Canada. Mr. Christmas said he was frustrated by the fact that large value contracts were awarded without any Indigenous requirements. Mr. Skudra said that it was critical to give Indigenous businesses access to



larger contracts, such as those with the shipbuilding contractor Seaspan, which ensure that throughout the supply chain, there is a focus on engaging with Indigenous businesses. However, he conceded that the majority of Indigenous businesses are relatively small and that it would be unrealistic to expect the federal government to hire directly an Indigenous business for a large and high-value contract. He suggested that the federal government focus on the supply chain and ensure that large purchases and large contracts that go to non-Indigenous businesses have clauses that support the inclusion of Indigenous businesses throughout the supply chain.

Mr. LeClair argued that PSPC should include new types of tendering instruments in large federal procurement bids. He complained that many federal contracts provide little benefits to Indigenous people. He was disappointed that the rehabilitation of the Parliamentary Precinct did not include minimum Indigenous requirements. He expressed the same frustration with major projects linked to federal infrastructure funding. He recommended that the federal government apply a minimum Indigenous content requirement to larger-scale contracts.

Mr. Willy indicated that a large segment of the Indigenous population has been prevented from participating in defence procurement due to a lack of mandate, incentives, and compliance mechanisms related to working with Indigenous businesses. He added that between 2007 and 2016, the Department of National Defence was the highest-spending department and its procurement spending was over \$66 billion. According to Mr. Willy, although the federal government has in place policies encouraging prime contractors to invest in the private sector, these policies have not incentivized or targeted spending to Indigenous suppliers; thus only \$37 million, or 0.06%, of the total spending in defence procurement contracts over the past decade was awarded to Indigenous businesses. He suggested that the federal government add an Indigenous multiplier within the ITB Policy under the Defence Procurement Strategy to ensure that prime contractors have incentives to enhance the participation of Indigenous suppliers within their supply chain. Mr. Christmas fully supported that suggestion.

Finally, TWCC recommended in its first brief that the current maximum value for contract size of \$2 million for set-asides be removed so that mature Indigenous businesses could participate in large federal procurements.

6.3.1 Parliamentary Precinct

Mr. LeClair informed the Committee that in fall 2017, PSPC posted a tendering process for project managers for a portion of the rehabilitation of the Parliamentary Precinct for only three weeks. Moreover, he highlighted that one of the requirements in that tendering process was that eligible companies had to acquire their resources from

within a 50-kilometre radius of Ottawa, which prevented Métis people from winning the contract. On that subject, Mr. Wright recognized that for this particular contract, his branch included a 50-kilometer limit since it was for on-site project management support services for projects in downtown Ottawa. He added that this limit “was used as a proxy to be able to perform the services on-site and support the efficient and effective delivery of the work. The intent was not to limit bidding, but to indicate that services would be required on site.” Agreeing with the critique that the language used could be interpreted as limiting, he explained that his branch undertook the following steps to rectify the situation:

- The 50-kilometer limit clause was removed from the RFPs.
- The tender time was extended from 20 to 30 days.
- The building located at 100 Wellington Street was excluded from the contract to allow the use of a set-aside in support of Indigenous people and businesses.

Mr. Wright shared that through voluntary set-asides under the PSAB, the Parliamentary Precinct Branch at PSPC has awarded over \$15 million in work to Indigenous businesses since fiscal year 2014–2015. He added that in 2016–2017, a little over 2% of the total expenditures on major projects were given to Indigenous businesses. He also highlighted that in its 2016–2017 annual report, PSPC committed to working with their acquisition partners to require bidders for large-scale projects under set-asides to put in place an Indigenous subcontracting strategy, an Indigenous participation strategy and an Indigenous internship or apprenticeship strategy in 100% of their major projects. Moreover, his branch set a goal that at least 5% of the subcontracted work would be targeted to Indigenous businesses for major construction projects. He said that the Parliamentary Precinct Branch has reached 2.1%, and he is working with acquisition partners to develop incentives for major contractors to subcontract Indigenous businesses.

However, Mr. LeClair and Mr. Card argued that the current management contracts lack clauses to encourage construction management companies to contribute specifically to the use of Indigenous businesses.⁵⁹

59 OGGO, *Evidence*, 1st Session, 42nd Parliament, 26 April 2018, (Mr. LeClair, Special Advisor, Métis National Council, and Mr. Card, Bilateral Coordinator, Métis National Council).



6.4 Committee Observations and Recommendations

Indigenous entrepreneurs and businesses, including women, have an important role to play in the growth and prosperity of the country. The federal government is a significant purchaser of goods and services and can play a critical role in supporting Indigenous entrepreneurs. The Committee heard from some witnesses that a one-size-fits-all approach does not favour the development of strong partnerships between the federal government and these communities. Instead, a good understanding of their culture and person-to-person interaction with Indigenous businesses will help develop and nurture key relationships that will lead to better procurement outcomes.

There are several federal purchasing departments and agencies. PSPC is the central purchasing agent for federal departments and agencies, whereas INAC manages the Procurement Strategy for Aboriginal Business (PSAB). The Committee heard different views concerning the PSAB. Many witnesses believed that voluntary federal set-aside contracts for Indigenous businesses were not being sufficiently utilized. PSPC and INAC both have a role to play in the promotion of the use of voluntary set-asides for Indigenous businesses by federal departments and agencies. Also, the Committee heard from some witnesses that the PSAB initiative would benefit from the adoption of a multi-departmental approach which could result in an increase of the number voluntary federal set-asides for Indigenous businesses.

The PSAB had not undergone a gender-based analysis plus (GBA+). Such an analysis could help the department improve the Strategy and ensure that the right tools are supporting Indigenous businesses.

The federal government announced in its 2018 budget a new electronic procurement platform. A number of Indigenous communities are located in remote areas where access to broadband Internet can be challenging. The Committee members therefore encourage the federal government to be flexible in the way it accepts proposals for procurement contracts and ensure that this new platform does not limit the participation of businesses that have no or limited access to broadband Internet.

It is the opinion of the Committee members that Indigenous SMEs can greatly benefit from joint ventures and partnerships with more experienced and larger businesses; thus, they believe that the federal government should do more to promote and support Indigenous SMEs through the bidding evaluation process.

While INAC is working to modernization the PSAB initiative, the Committee encourages the department to better track, measure and evaluate the impact of the PSAB on

Indigenous communities. Improving data collection and program evaluation is critical to improving the Strategy.

Finally, the Committee members acknowledge that the federal government has a responsibility to promote diversity in its procurement supply chain and therefore encourage PSPC, including the Parliamentary Precinct Branch, to require the use of diversified subcontractors, such as Indigenous and women-owned businesses, within its large-scale contract requirements.

Consequently, the Committee recommends that:

Recommendation 32

The Government of Canada increase the participation of Indigenous businesses in federal procurement contracts by taking into account the culture of Indigenous communities and by developing strong relationships and partnerships through more in-person interactions.

Recommendation 33

The Government of Canada develop a multi-departmental approach for the administration of the Procurement Strategy for Aboriginal Business, including greater roles and responsibilities for Public Services and Procurement Canada in the policy development and implementation and for the Treasury Board Secretariat to monitor, report and enforce departmental use and adherence to the policy.

Recommendation 34

The Government of Canada ensure that all procuring departments and agencies have a common interpretation of the Procurement Strategy for Aboriginal Business and take advantage of the voluntary set-asides component for Indigenous businesses.

Recommendation 35

The Government of Canada publish on an annual basis a centralized report on the number and value of contracts awarded under the Procurement Strategy for Aboriginal Business.



Recommendation 36

The Government of Canada conduct a gender-based analysis plus (GBA+) of the impact of the Procurement Strategy for Aboriginal Business to identify potential barriers to different groups of Indigenous business owners.

Recommendation 37

The Government of Canada improve the current set-asides for Indigenous businesses to increase their use and promote contract awards to Indigenous businesses in order to respect the requirements of the Procurement Strategy for Aboriginal Business and the set-asides.

Recommendation 38

The Government of Canada improve its data collection of Indigenous business activities to properly measure and evaluate the impact of the Procurement Strategy for Aboriginal Business in order to identify challenges, provide greater accountability, and improve the Strategy as required.

Recommendation 39

The Government of Canada require large-scale contractors and suppliers to report on the use of diverse subcontractors, including Indigenous and women-owned businesses.

Recommendation 40

The Government of Canada phase in requirements that large-scale contractors advertise subcontracting opportunities for small and medium enterprises on the government's procurement website, buyandsell.gc.ca.

CONCLUSION

The federal government is the largest public buyers of goods and services in Canada, with purchases of approximately \$23 billion annually. The Committee acknowledges that the Government of Canada has a role to play in supporting Canadian small and medium enterprises (SMEs), including women-owned and Indigenous businesses. Through the creation of proper procurement strategies and initiatives, the Government of Canada can have a significant impact on SMEs and the country's economy. The Committee recommends that the Government of Canada facilitate access and increase the participation of SMEs, women-owned and Indigenous businesses in its procurement process, as they are significant job creators.

The Committee recognizes that the federal procurement process is very complex and can be difficult to navigate for most Canadian business owners, especially SMEs and Indigenous businesses. It is concerned that the majority of SMEs in Canada do not consider the federal government as a potential client, and those that do, are often discouraged with the process. As such, the process could be greatly improved for SMEs. The Committee acknowledges that the federal procurement process needs to be simplified for SMEs by reducing red tape, ensuring that requirements are tailored to the procurement opportunity, and shortening the length of the process.

In its study, the Committee observed that the federal procurement process is disjointed and would benefit from better coordination among federal departments and agencies. It also observed that the federal government's approach to procurement is inward looking with processes that are not geared toward suppliers and do not take into account the needs of SMEs. Federal procurement should be easy to navigate and supplier oriented. As well, procurement materials should be written in plain language and English and French versions should be consistent. The Committee encourages the Office of Small and Medium Enterprises, the Procurement Ombudsman and the Canadian International Trade Tribunal to continue outreach activities, and to work collaboratively to improve federal procurement.

The Committee acknowledges that data collection and analysis is an important step in evaluating federal procurement and identifying opportunities for improvement. This includes measuring the proportion of procurements that are awarded to different types of SMEs and gathering gender-based and industry-specific data. It is also important that all Canadians, including business owners and suppliers, have access to reliable federal procurement data in a timely fashion.



The Committee is confident that, if implemented, the 40 recommendations outlined in this report would reduce the barriers faced by SMEs, women-owned and Indigenous businesses in navigating the federal government procurement process. The federal government procurement process must be improved by

- simplifying the current procurement process;
- modernizing the Government of Canada's policies and procedures for contracting, including streamlining requirements and updating terms and conditions, taking into account the findings of the Office of the Procurement Ombudsman;
- ensuring that the right procurement approach is used for each procurement;
- implementing strategies to encourage and promote procurement officials and suppliers to place greater emphasis on best value for Canadians, by including value-propositions that give greater weight to qualifications and quality rather than primarily focusing on price;
- establishing targets for the dollar amounts and the number of federal procurement contracts that the federal government awards to small and medium enterprises; and,
- improving data collection to track and evaluate of the impact of the Procurement Strategy for Aboriginal Business on Indigenous business activities in order to provide greater accountability.

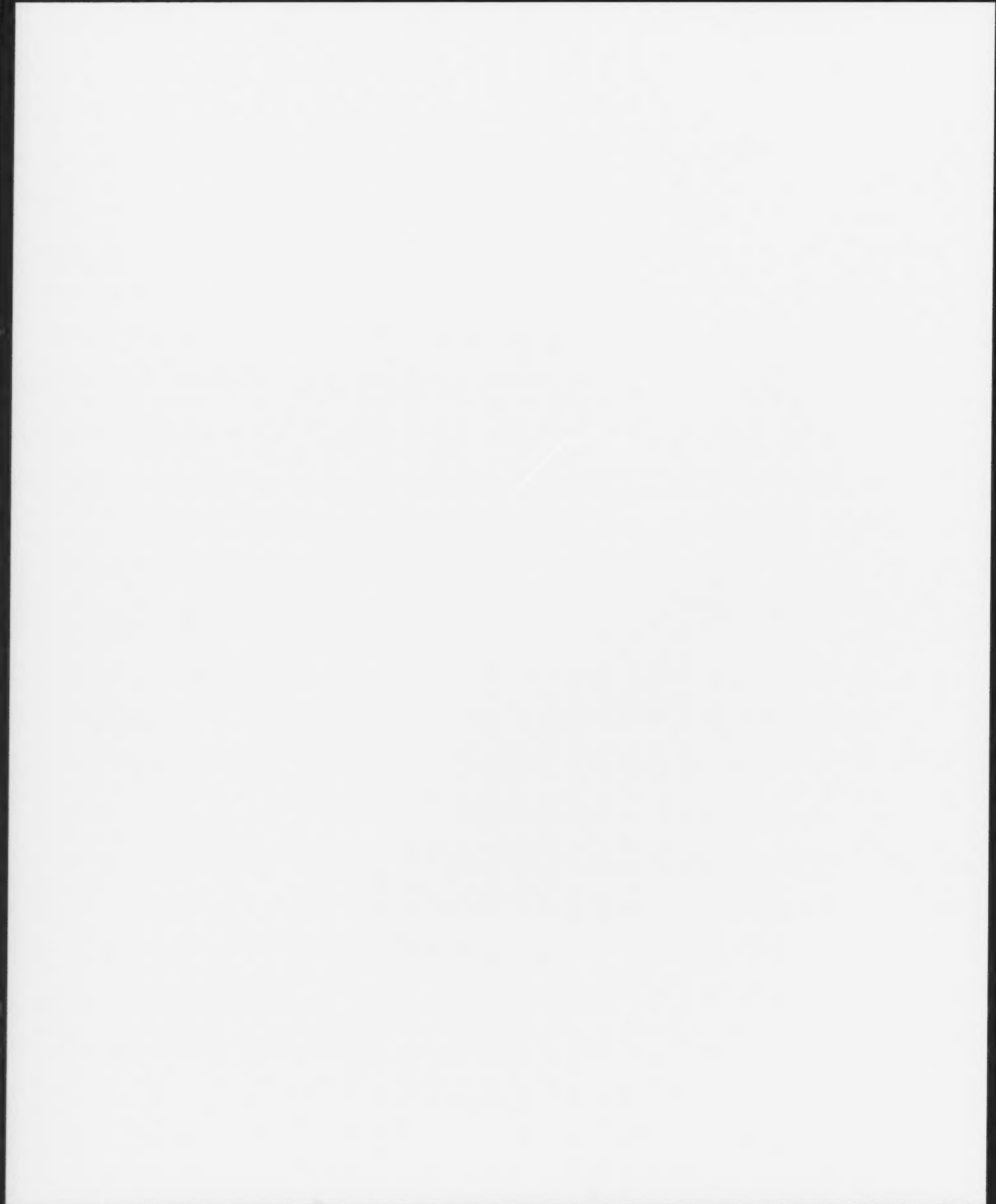
APPENDIX A LIST OF WITNESSES

Procurement Strategy for Aboriginal Business

Organizations and Individuals	Date	Meeting
Department of Public Works and Government Services Desmond Gray, Director General Office of Small and Medium Enterprises and Stakeholder Engagement Arianne Reza, Assistant Deputy Minister Procurement Office of the Procurement Ombudsman Lorenzo Ieraci, Interim Procurement Ombudsman Treasury Board Secretariat Kathleen Owens, Assistant Comptroller General Acquired Services and Assets Sector, Office of the Comptroller General Mark Schizkoske, Director Procurement Policy, Office of the Comptroller General	2017/10/31	104
Canadian International Trade Tribunal Peter Burn, Member Eric Wildhaber, Senior Counsel Secretariat to the Canadian International Trade Tribunal, Administrative Tribunals Support Service of Canada Department of Foreign Affairs, Trade and Development Pierre Marier, Director Procurement, Trade and Environment Ana Renart, Director General Market Access Department of Public Works and Government Services Matthew Sreter, Executive Director Strategic Policy Development and Integration Directorate, Acquisitions	2017/11/02	105

Organizations and Individuals	Date	Meeting
Canadian Council for Aboriginal Business Josh Riley, Manager Innovation and Entrepreneurship Max Skudra, Director Research and Government Relations Department of Indian Affairs and Northern Development Mohan Denetto, Director General Economic and Business Opportunities, Lands and Economic Development Sheilagh Murphy, Assistant Deputy Minister Lands and Economic Development Department of Public Works and Government Services Carolyne Blain, Director General Strategic Policy Arianne Reza, Assistant Deputy Minister Procurement Métis National Council Marc LeClair, Bilateral Coordinator John Weinstein, Policy Advisor Tlicho Government Bertha Rabesca Zoe, Legal Counsel Colin Salter, Legal Counsel	2017/11/07	106
As an individual Bernd Christmas, Chief Executive Officer and General Counsel Gitpo Storms Corporation Des Nedhe Development Sean Willy, President and Chief Executive Officer FoxWise Technologies Inc. Sam Damm, President Dylan Pine, Account Manager K-Sports Marine Inc. John Derouard, President and Member of Red Sky Métis Independent Nation	2017/11/30	111

Organizations and Individuals	Date	Meeting
Red Sky Métis Independent Nation Donelda DeLaRonde, Executive Director	2017/11/30	111
Seven Generations Energy Ltd. Alan Boras, Director Communications and Stakeholder Relations Susan Targett, Executive Vice-President Corporate		
Native Women's Association of Canada Patrick Cheechoo, Director of Operations	2018/01/30	115
Suncor Energy Inc. Virginia Flood, Vice-President Government Relations Howard McIntyre, Vice-President Supply Chain and Field Logistics		
Department of Public Works and Government Services Nathalie Laliberté, Director General Program, Portfolio and Client Relationship Management Matthew Sreter, Executive Director Strategic Policy Development and Integration Directorate, Acquisitions Rob Wright, Assistant Deputy Minister Parliamentary Precinct Branch	2018/03/22	123
City of Toronto April Lim, Policy Development Officer Social Development, Finance and Administration Division Mike Pacholok, Chief Purchasing Officer Purchasing and Materials Management Division	2018/03/27	124
Métis National Council Brian Card, Special Advisor Marc LeClair, Special Advisor	2018/04/26	128



APPENDIX B LIST OF WITNESSES

Small and Medium Enterprises (SME) in Federal Procurement

Organizations and Individuals	Date	Meeting
Department of Public Works and Government Services Desmond Gray, Director General Office of Small and Medium Enterprises and Stakeholder Engagement Arianne Reza, Assistant Deputy Minister Procurement Office of the Procurement Ombudsman Lorenzo Ieraci, Interim Procurement Ombudsman Treasury Board Secretariat Kathleen Owens, Assistant Comptroller General Acquired Services and Assets Sector, Office of the Comptroller General Mark Schizkoske, Director Procurement Policy, Office of the Comptroller General	2017/10/31	104
Canadian International Trade Tribunal Peter Burn, Member Eric Wildhaber, Senior Counsel Secretariat to the Canadian International Trade Tribunal, Administrative Tribunals Support Service of Canada Department of Foreign Affairs, Trade and Development Pierre Marier, Director Procurement, Trade and Environment Ana Renart, Director General Market Access Department of Public Works and Government Services Matthew Sreter, Executive Director Strategic Policy Development and Integration Directorate, Acquisitions	2017/11/02	105

Organizations and Individuals	Date	Meeting
Aerospace Industries Association of Canada Iain Christie, Executive Vice-President Jim Quick, President and Chief Executive Officer	2017/12/05	112
Canadian Federation of Independent Business Louis-Martin Parent, Director President's Office		
Fédération des chambres de commerce du Québec Pierre-Yves Boivin, Vice-President Strategy and Economic Affairs Yvon Boudreau, Consultant		
Amika Mobile Corporation Suhayya (Sue) Abu-Hakima, Co-Founder and Chief Executive Officer	2017/12/07	113
Newfoundland and Labrador Organization of Women Entrepreneurs Paula Sheppard, Chief Executive Officer		
SageTea Software David Long, Chief Executive Officer Scott MacGregor, President		
Spartan Bioscience Inc. Paul Lem, Chief Executive Officer		
Women Business Enterprises Canada Council Mary Anderson, President Stephanie Fontaine, Vice-President		
As individuals Barbara Orser, Full Professor and Deloitte Professor in the Management of Growth Enterprises Telfer School of Management, University of Ottawa Allan Riding, Full Professor and Deloitte Professor in the Management of Growth Enterprises Telfer School of Management, University of Ottawa	2017/12/12	114

Organizations and Individuals	Date	Meeting
Information Technology Association of Canada Nevin French, Vice-President Policy André Leduc, Vice-President Government Relations and Policy	2018/02/01	116
Strategic Relationships Solutions Inc. Andy Akrouche, Managing Partner		
Association of Consulting Engineering Companies – Canada John Gamble, President and Chief Executive Officer	2018/02/06	117
Brookfield Global Integrated Solutions Gordon Hicks, Chief Executive Officer Mark Taylor, National Procurement Lead		
Canon Canada Inc. Dave Montuoro, National Sales Manager Federal Government Accounts		
Sharp Electronics of Canada Ltd. Hugh Ralph, Director of Direct Sales Business Solutions Division		
Vard Marine Inc. Andrew Kendrick, Vice-President Operations		
U.S. Small Business Administration Eugene Cornelius, Deputy Associate Administrator Office of International Trade James Parker, Acting Director State Trade Expansion Program, Office of International Trade	2018/02/08	118
As an individual Dan Murphy, President AdaptiveOrg Inc.	2018/02/13	119
Ernst and Young LLP Kirsten Tisdale, Managing Partner Government and Public Sector		

Organizations and Individuals	Date	Meeting
Information Technology Association of Canada André Leduc, Vice-President Government Relations and Policy	2018/02/13	119
Strategic Relationships Solutions Inc. Andy Akrouche, Managing Partner		
Department of Public Works and Government Services Nathalie Laliberté, Director General Program, Portfolio and Client Relationship Management Matthew Sreter, Executive Director Strategic Policy Development and Integration Directorate, Acquisitions Rob Wright, Assistant Deputy Minister Parliamentary Precinct Branch	2018/03/22	123
City of Toronto April Lim, Policy Development Officer Social Development, Finance and Administration Division Mike Pacholok, Chief Purchasing Officer Purchasing and Materials Management Division	2018/03/27	124
Canada-United States Council for Advancement of Women Entrepreneurs and Business Leaders Elyse Allan, President and Chief Executive Officer GE Canada Annette Verschuren, O.C., Chair and Chief Executive Officer NRStor Inc.	2018/04/24	127
Crown Commercial Service of the United Kingdom Cass Chideock, Deputy Director Small Business Policy Team		
Métis National Council Brian Card, Special Advisor Marc LeClair, Special Advisor	2018/04/26	128

APPENDIX C LIST OF BRIEFS

Procurement Strategy for Aboriginal Business

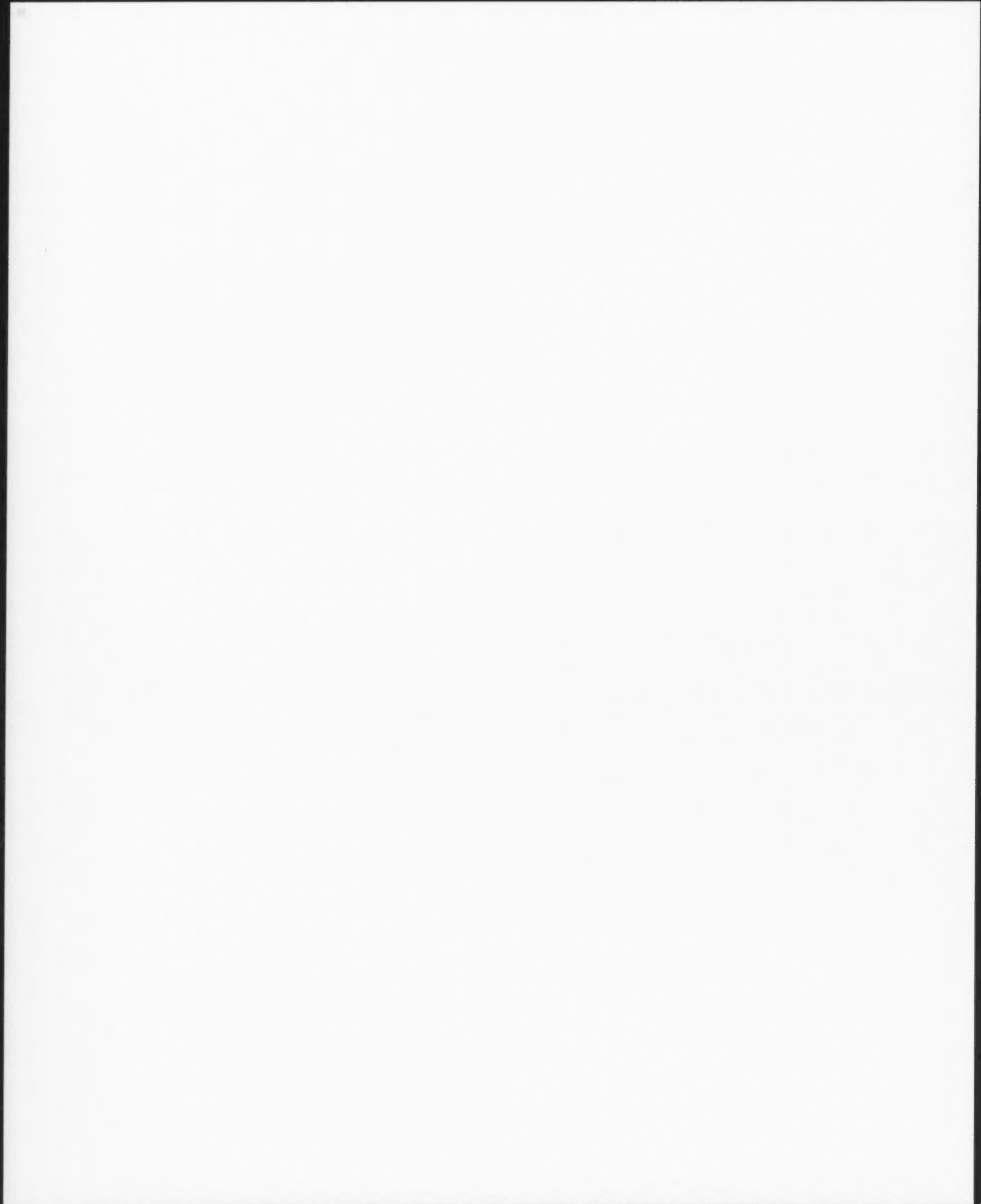
Organizations and Individuals

Card, Brian

Canadian Council for Aboriginal Business

K-Sports Marine Inc.

Tribal Wi-Chi-Way-Win Capital Corporation



APPENDIX D

LIST OF BRIEFS

Small and Medium Enterprises (SME) in Federal Procurement

Organizations and Individuals

BC Tech Association

Brookfield Global Integrated Solutions

Canon Canada Inc.

Card, Brian

Coulson Group of Companies

Orser, Barbara

Sharp Electronics of Canada Ltd.

Thinking Big Information Technology Inc.

Vard Marine Inc.

Women Business Enterprises Canada Council



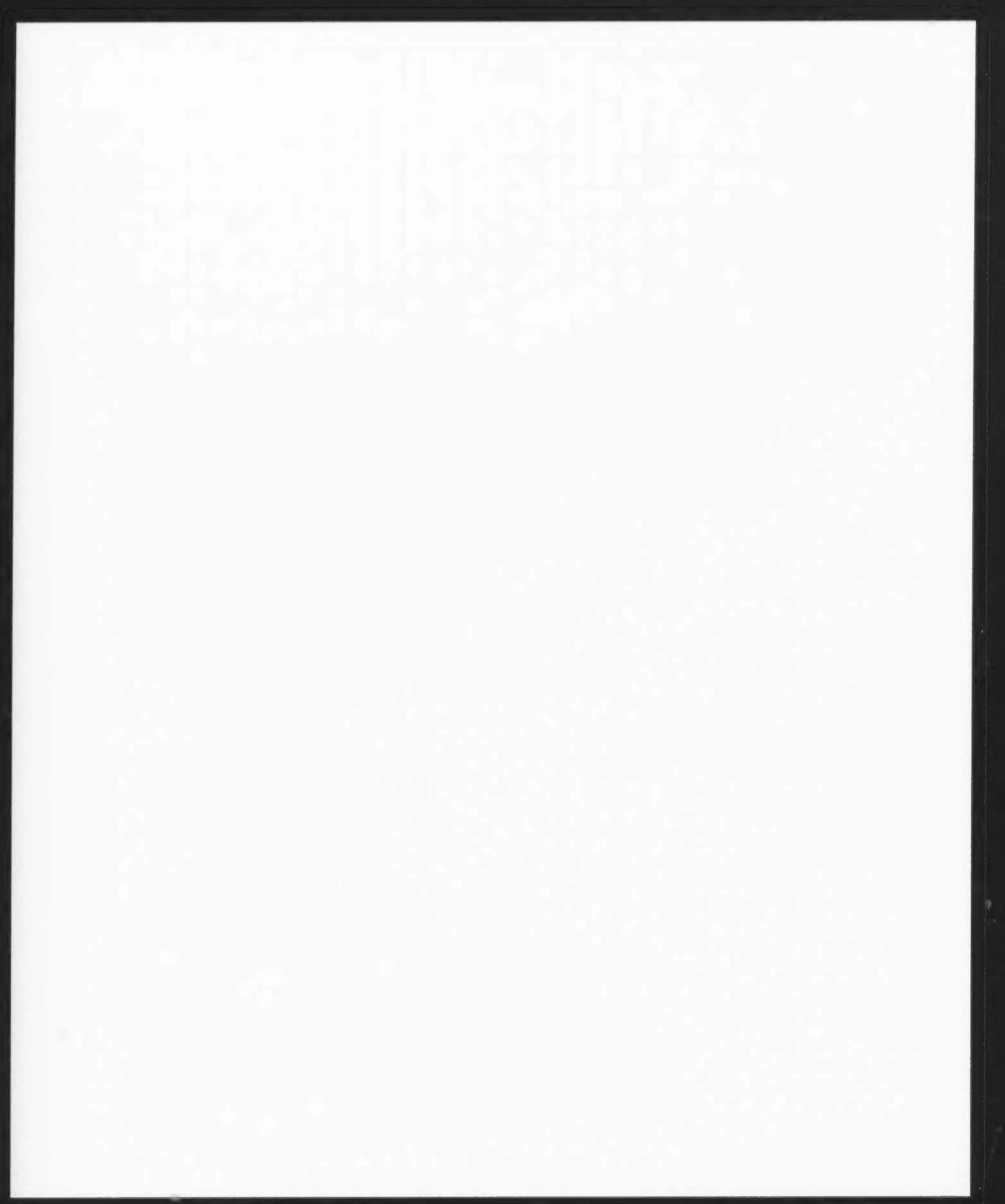
REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 104 to 106, 111, 115, 123, 124, 128, 134, 137, 140 and 141 in relation to the study of the Procurement Strategy for Aboriginal Business and Meetings Nos. 104, 105, 112 to 114, 116 to 119, 123, 124, 127, 128, 134, 137, 140 and 141 in relation to the study of Small and Medium Enterprises (SME) in Federal Procurement) is tabled.

Respectfully submitted,

Tom Lukiwski
Chair



SUPPLEMENTARY OPINION FROM THE CONSERVATIVE PARTY OF CANADA

Accessibility and Simplification: The Government of Canada must cut bureaucratic red-tape to incentivize diverse business partnerships.

Conservative members of the House of Commons Standing Committee on Government Operations and Estimates thank the many witnesses who provided their insights on the procurement process for Small and medium-sized enterprises (SMEs). We agree in principle with many elements of the report prepared by the Operations and Government Estimates Committee, namely that the Canadian procurement system must be modernized. However there were some key elements heard during witness testimony that we believe were under-represented in the report. As such, we have provided these supplementary observations to accompany the report presented by the committee.

There were many SME representatives that spoke to the committee about their experiences dealing with the federal procurement process. While many of the report recommendations include reviewing set-aside programs and data collection, the recommendations dealing with complexity and red-tape may not be adequate in reducing barriers to SMEs.

The Procurement Ombudsman, Mr. Lorenzo Ieraci, told the committee that a vast majority of questions coming to his office from SMEs are in regards to the procurement process, stating "[t]hey're not necessarily understanding the rules, the procedures, or what they have to do in order to do business with the Government of Canada..."¹ He later expanded this, noting that the various rules required for submitting bids "...impose a burden on some suppliers [he's] spoken with in terms of being able to submit proposals that will be deemed successful or that can qualify as per the requirements."² Expanding set-asides and targets for government procurements is an important facet to engage SMEs, but it must be done in tandem with a vigorous cross-government simplification for submitting bids.

Mr. Marc LeClair, Special Advisor to the Métis National Council, told the committee "The complexity of the procurement instruments is a problem. Finding out about the opportunities on a timely basis so that you can prepare a bid or prepare a joint venture partner is a problem because a lot of the contracting will require indigenous companies to enter into a joint venture with an established player."³ His colleague, Mr. Brian Card agreed, stating "...it's the complexity of getting your foot in the door with the federal government. It's all the hoops that you have to go through."⁴ There are further burdens in administration that prevent indigenous businesses from accessing government contracts, with Mr. Card pointing out that "...the aboriginal community is not being given a chance to bid. Because they haven't gone through the application process, they haven't been pre-qualified."⁵ Eliminating some of these barriers in the application process would signal to indigenous communities that they are not only eligible to do

¹ Lorenzo Ieraci, Interim Procurement Ombudsman, *Evidence*, 1st Session, 42nd Parliament, Meeting No. 104, 31 October, 2017

² Ibid.

³ Marc LeClair, Special Advisor, Metis National Council, *Evidence*, 1st Session, 42nd Parliament, Meeting No. 128, April 26, 2018

⁴ Brian Card, Special Advisor, Metis National Council, *Evidence*, 1st Session, 42nd Parliament, Meeting No. 128, April 26, 2018

⁵ Ibid.

business with the Government of Canada, but that they indeed have the capacity to fulfill the requirements needed to do it successfully.

In order to ensure that Canada's procurement system is benefitting both Canadian industry and SMEs, the government must commit to concrete action that will simplify the procurement process. Unlike large-scale businesses, SMEs do not necessarily have the capacity to review, revise, and apply for 500+ page Requests for Proposals (RFPs). Ms. Annette Verschuren, Chair and CEO of NRStor Inc., told the committee that one of the greatest barriers to SMEs in Canada "... is the amount of regulation on everything. The complexity of applying for these things is extremely important. As we design anything in our government, I really believe the execution may be more important than the strategy."⁶ Ms. Verschuren and Ms. Elyse Allen, President and CEO of GE Canada, indicated that despite women owning nearly half of all new businesses, they are not able to access many government contracts.⁷ Increasing set-asides alone will not change the administrative barriers being faced by SMEs, women-owned, indigenous-owned, and otherwise.

There must be a tangible commitment to cutting down the administrative burden for businesses seeking to engage with the federal government. Smaller companies do not necessarily have the resources to dedicate one single staff-member to seeking out and monitoring a bid. Further, there must be a real commitment to simplifying the procurement process whether by stream-lining the application process, moving smaller procurement projects and everyday contracts to a web-based platform like GSAdvantage as used in the U.S., or work on direct partnerships with community-based contractors like those in Indigenous communities across Canada. The government's procurement process must be able to accommodate the broad array of businesses in Canada in a way that allows for smaller companies to compete at par with larger companies. This would encourage innovation and expansion for these businesses while contributing to an overall stronger economy that bolsters and supports Canadian entrepreneurship.

Finally, it was noted that throughout the study, the testimony provided by the Department of Public Works and Government Services and Department of Indigenous and Northern Affairs Canada seemed to deny or downplay many of the criticisms outlined by private sector SME and Indigenous advocacy group representatives. This outlines a clear and immediate conflict with the commitment to reconcile government policy with departmental action or inaction. In order for there to be any semblance of success in reforming Canada's procurement system, the departments responsible for managing or overseeing procurement projects must take responsibility for their role in contributing to its inefficiencies, and acknowledge that their choice in expediting the report recommendations will be the deciding factor in whether there will be true, actioned, and tangible reform or just another item "underway with challenges".

⁶ Annette Verschuren, Chair and CEO, NRStor Inc., *Evidence*, 1st Session, 42nd Parliament, Meeting No. 127, April 24, 2018

⁷ Elyse Allen, President and CEO, GE Canada, *Evidence*, 1st Session, 42nd Parliament, Meeting No. 127, April 24, 2018